

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 1 and 22 of the Commission’s	)	WT Docket No. 12-40
Rules with Regard to the Cellular Service,	)	
Including Changes in Licensing of Unserved Area	)	RM No. 11510
	)	
Amendment of the Commission’s Rules with	)	
Regard to Relocation of Part 24 to Part 27	)	
	)	
Interim Restrictions and Procedures for Cellular	)	
Service Applications	)	

**NOTICE OF PROPOSED RULEMAKING AND ORDER**

**Adopted: February 15, 2012**

**Released: February 15, 2012**

**Comment Date: (60 days after date of publication in the Federal Register)**

**Reply Comment Date: (90 days after date of publication in the Federal Register)**

By the Commission: Chairman Genachowski and Commissioners McDowell and Clyburn issuing separate statements.

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## I. INTRODUCTION

1. Since its inception roughly 30 years ago, the 800 MHz Cellular Radiotelephone (Cellular) Service has been instrumental in transforming the communications landscape by making mobile services broadly available to the American public.<sup>1</sup> For many years, the Cellular Service’s licensing model has helped successfully drive widespread construction and initial service to the public. Today, most Cellular Service markets are almost completely licensed, with only limited unlicensed Cellular Service area remaining. At this advanced stage of the Cellular Service, however, the site-based aspect of this licensing model is yielding diminished returns. As regions have become substantially developed, the significant administrative burdens on licensees associated with the site-based model no longer appear to be outweighed by the public benefits produced. In addition, the Cellular Service stands apart from virtually all other commercial wireless services by not yet transitioning to a geographic-based model, which offers greater flexibility and reduced regulatory requirements. Thus, consistent with the Commission’s regulatory reform agenda,<sup>2</sup> we propose in this Notice of Proposed Rulemaking (*NPRM*) to revise the licensing model for the Cellular Service from a site-based model to a geographic-based approach.

2. Specifically, we propose to issue geographic-area “Overlay Licenses” through competitive bidding, in two stages. Stage I of the transition would include all Cellular Service markets that meet our proposed “Substantially Licensed” test. In this Stage, Overlay Licenses would be offered at auction and site-based licensing would cease in such markets. This is because in markets that have already undergone substantial buildout, the site-based model is of limited utility. The site-based regime would continue,

<sup>1</sup> The Cellular service-specific rules are in Part 22, Subpart H. *See generally* 47 C.F.R. §§ 22.900 *et seq.* Certain Part 1 rules, *e.g.*, those found at 47 C.F.R. Part 1, Subpart F, also apply to the Cellular Service.

<sup>2</sup> *See, e.g.*, Preliminary Plan for Retrospective Analysis of Existing Rules, 2011 WL 5387696 (F.C.C.); Amendment of Part 101 of the Commission’s Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees, *Report and Order, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order*, WT Docket No. 10-153, RM-11602, 26 FCC Rcd 11614, 11698 (Statement of Chairman Julius Genachowski, noting the Commission’s “regulatory reform agenda, recognizing our ongoing commitment to remove or reform outdated regulations”).

however, in all other Cellular Service markets for a defined period until Stage II of the transition. We propose seven years as the appropriate time period before Stage II is triggered. Our proposal includes continued protection of incumbents from harmful interference throughout all stages of the transition.

3. We also propose to streamline the Cellular Service rules, including, for example, updating application requirements and deleting certain data collection requirements, such as certifications associated with cessation of the former requirement to provide analog service (“analog sunset”). Consistent with our other flexibly licensed services, we propose to establish a signal field strength limit. We seek comment on all aspects of our proposals, and on the alternative proposals discussed in this *NPRM*, including those of CTIA–The Wireless Association (CTIA),<sup>3</sup> the National Telecommunications Cooperative Association (NTCA),<sup>4</sup> The Rural Telecommunications Group (RTG),<sup>5</sup> and others on the record.<sup>6</sup>

4. In anticipation of potential regulatory changes in the Cellular Service, we adopt the companion Order, below. With this Order we impose a freeze on the filing of certain Cellular applications. We also establish interim procedures in the Order regarding currently pending applications. These prudent steps will help ensure a more efficient and orderly rulemaking, consistent with numerous prior Commission actions, while allowing continued expansion of service to consumers in many markets.

## II. BACKGROUND

### A. Cellular Licensing History

5. The Commission adopted initial rules governing allocation of spectrum for commercial Cellular service, including the establishment of two channel blocks (Blocks A and B), in 1981.<sup>7</sup> The Commission established in phases 734 Cellular Market Areas (CMAs)<sup>8</sup> for the purpose of issuing licenses

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<sup>3</sup> See Petition for Rulemaking submitted by CTIA on Oct. 8, 2008 (CTIA Petition); CTIA September 2010 *Ex Parte* Filing (a power-point presentation), originally submitted under Cover Letter dated Sept. 21, 2010, with a corrected version submitted under Cover Letter dated Sept. 22, 2010 (CTIA Revised Plan). Throughout this *NPRM*, references to CTIA’s Revised Plan mean the corrected version of the power-point presentation submitted Sept. 22, 2010. References to the Cover Letter itself will specify either the original Sept. 21, 2010 letter, or the subsequent Sept. 22, 2010 letter, as applicable. Subsequently, CTIA filed several other *Ex Parte* letters. See Appendix A.

<sup>4</sup> See NTCA Comments filed Feb. 23, 2009.

<sup>5</sup> See RTG Comments filed Feb. 23, 2009; Letter to Marlene H. Dortch, Secretary of the Commission, dated Nov. 8, 2010, from Caressa D. Bennet *et al.*, Attorneys for RTG (RTG Letter Response).

<sup>6</sup> The Wireless Telecommunications Bureau issued a Public Notice seeking comment on the CTIA Petition. See Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Transition Part 22 Cellular Services to Geographic Market-Area Licensing, *Public Notice*, RM No. 11510, 24 FCC Rcd 27 (WTB 2009) (*Public Notice*). A complete list of all commenters on the record is provided in Appendix A. The proposals and comments on the record are discussed below in Section II.B.

<sup>7</sup> See generally An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission’s Rules Relative to Cellular Communications Systems, *Report and Order*, CC Docket No. 79-318, 86 F.C.C.2d 469 (1981).

<sup>8</sup> The 734 CMAs comprise 306 Metropolitan Statistical Areas (MSAs) and 428 Rural Service Areas (RSAs). A complete listing is provided in the following notice: Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties, *Public Notice*, Rep. No. CL-92-40, 6 FCC Rcd 742 (1992), cited in 47 C.F.R. § 22.909.

to two Cellular providers per market (herein, “Original System Licensees” (OSLs)),<sup>9</sup> one on each Block, without competitive bidding. Every OSL was given the exclusive right, for a five-year period from the date of grant of the initial construction authorization for that CMA Block, to build out anywhere within the CMA boundary.<sup>10</sup> The area timely built out during that five-year period became the licensee’s initial Cellular Geographic Service Area (CGSA), the licensed area entitled to protection from harmful interference,<sup>11</sup> while any area not built out by the five-year mark (Unserviced Area) was automatically relinquished for re-licensing on a site-by-site basis by the Commission.<sup>12</sup> Under site-based licensing, the applicant requests authorization to construct at a specific transmitter location (or multiple locations) in Unserviced Area,<sup>13</sup> and may only construct authorized transmitters. For all CMA Blocks except one (Chambers, Texas),<sup>14</sup> licenses have been issued to OSLs and the initial five-year periods have expired.<sup>15</sup>

6. The Commission established two phases for applicants seeking to provide Cellular service in Unserviced Area for each CMA Block: Phase I and Phase II.<sup>16</sup> As of late 2007, the Phase I filing window had ended in all licensed Blocks.<sup>17</sup> Under current rules, Phase II lasts indefinitely.<sup>18</sup> Phase II applications specify the area to be licensed and are subject to a 30-day public comment period during which petitions to deny and mutually exclusive applications may be filed. In the event that mutually exclusive applications are filed for a particular Unserviced Area, they are resolved through competitive bidding in closed auctions.<sup>19</sup> Licenses granted in Phase II are subject to a one-year construction deadline for the

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<sup>9</sup> In this *NPRM*, we use the terms Original System Licensee and OSL and define them to include also the successors-in-interest, transferees, and assignees of the actual party that was initially authorized to construct the first Cellular system on Block A or B in a particular CMA.

<sup>10</sup> *See, e.g.*, 47 C.F.R. § 22.947.

<sup>11</sup> *See* 47 C.F.R. § 22.911(d). *See also* 47 C.F.R. § 22.907 (obligating licensees to coordinate with each other if their respective transmitters are within a certain proximity, and requiring them to “make reasonable efforts to resolve technical problems”).

<sup>12</sup> *See* 47 C.F.R. 22.911.

<sup>13</sup> *See* 47 C.F.R. §§ 22.929, 22.953 (specifying the technical and other information to be provided by the applicant).

<sup>14</sup> *See infra* Section III.A.2. (regarding Block A of the Chambers, TX CMA).

<sup>15</sup> By 1990, in some urban markets (MSAs) the initial 5-year period had already ended. The most recently issued OSLs were the result of Auction 45 for the following 3 RSAs (*see* 47 C.F.R. § 22.969): 332A (Polk, AR); 582A (Barnes, ND); and 727A (Ceiba, PR). Their initial 5-year construction periods expired in September 2007.

<sup>16</sup> *See* 47 C.F.R. § 22.949.

<sup>17</sup> Following each OSL’s 5-year build-out period, a 1-day Phase I filing window was opened and closed according to a specified timetable. *See* 47 C.F.R. § 22.949(a). *See* Amendment of Part 22 of the Commission’s Rules to Provide for Filing and Processing of Applications for Unserviced Areas in the Cellular Service and to Modify Other Cellular Rules, *Second Report and Order*, CC Docket No. 90-6, 7 FCC Rcd 2449, 2457-58 (1992) (*1992 Cellular Second R&O*) (providing more information about how Phase I filing windows were set and Phase I applications processed). The Phase II Unserviced Area application period commenced thereafter (with specific timing dependent on the Phase I process for that particular CMA Block). *See* 47 C.F.R. § 22.949(b). *See also infra* Section III.A.2. regarding Block A of the Chambers, TX CMA (explaining why a Phase I window has never been opened for this Block).

<sup>18</sup> *See* 47 C.F.R. § 22.949(b). A minimum coverage requirement of 50 contiguous square miles applies to all applications for Unserviced Area, unless submitted by a licensee that wishes to expand its existing Cellular system using Unserviced Area. *See* 47 C.F.R. § 22.951.

<sup>19</sup> *See* 47 C.F.R. § 22.949(b)(2) (citing *id.* § 22.131). *See also id.* §§ 22.131(c)(3)(iii) (explaining how mutual exclusivity is determined) and 22.960. The most recent such auction was in 2008. *See* “Closed Auction of Licenses for Cellular Unserviced Service Area Scheduled for June 17, 2008, Notice and Filing Requirements, Minimum (continued....)”

authorized site and the licensee must be providing service to subscribers by the end of the one-year period;<sup>20</sup> failure to build out results in automatic termination of the authorization for that site, and the Unserved Area again is subject to the filing of site-based applications.<sup>21</sup>

7. Both OSLs<sup>22</sup> and “Unserved Area Licensees”<sup>23</sup> have used the application process for licenses to construct in Unserved Area extensively over the years, as shown by the data presented in Section III below. Cellular licensees have obtained their authorizations primarily through direct application to the Commission without competitive bidding, as there have rarely been competing, mutually exclusive applications.<sup>24</sup> In the vast majority of markets, both OSLs and Unserved Area Licensees have had 15 to 20 years (even more in some cases) in which to build or expand their systems through site-based licensing,<sup>25</sup> while in most other markets the Unserved Area application process has been available to interested persons for over 10 years. As discussed in Section III below, based on our data, only limited Unserved Area remains outside of Alaska and certain rural markets in the western United States.

8. In contrast to site-based licensing, geographic-based licensing generally authorizes construction anywhere within a particular geographic area’s boundary (subject to certain interference protection and other technical requirements) and does not entail applications for prior Commission approval of specific transmitter locations. In other competing commercial wireless services, the Commission implemented geographic-based licensing, rather than a site-based model, from the inception of the radio service, particularly in the Broadband Personal Communications Service (PCS),<sup>26</sup> the Advanced Wireless Service (AWS),<sup>27</sup> and the 700 MHz Service.<sup>28</sup> In these radio services, the existing incumbents (*e.g.*, microwave, government, and broadcasters) were to be relocated. In other commercial

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Opening Bids, Upfront Payments, and Other Procedures for Auction 77,” *Public Notice*, 23 FCC Rcd 6670 (WTB 2008).

<sup>20</sup> See 47 C.F.R. § 22.946.

<sup>21</sup> See 47 C.F.R. § 22.949(b).

<sup>22</sup> The existing rules permit OSLs to submit Unserved Area applications to modify their systems following their initial 5-year build-out periods, subject to the same 1-year build-out requirement as any other applicant for Unserved Area. See 47 C.F.R. §§ 22.946, 22.949.

<sup>23</sup> We use the term “Unserved Area Licensee” to mean a licensee that has established a Cellular system in a particular market *solely* through the Unserved Area application process – Phase I and/or Phase II – after the expiration of the OSL’s 5-year initial build-out period. As noted above, OSLs also use the Unserved Area application process to modify their systems.

<sup>24</sup> United States Cellular Corporation, for example, states that it filed 54 Unserved Area applications in the 9 years before filing comments in this proceeding, and not one was met by a competing application. See USCC Comments filed Feb. 23, 2009 at 3. Commnet Wireless, LLC similarly states that its applications have rarely been challenged by a mutually exclusive application. See Commnet Comments filed Feb. 23, 2009 at 13.

<sup>25</sup> By July 1989, the initial filing period for all MSAs (not RSAs) had essentially been completed, and for some MSAs, the initial 5-year period was already nearing its end. See, *e.g.*, Amendment of the Commission’s Rules for Rural Cellular Service, *Order on Reconsideration of Second Report and Order*, CC Docket No. 85-388, 4 FCC Rcd 5377, 5380-81 (1989).

<sup>26</sup> See Amendment of the Commission’s Rules to Establish New Personal Communications Services, *Second Report and Order*, GEN Docket No. 90-314, 8 FCC Rcd 7700, 7753-54 (1993).

<sup>27</sup> See Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, *Order on Reconsideration*, WT Docket No. 02-353, 20 FCC Rcd 14058 (2005).

<sup>28</sup> See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, GN Docket No. 01-74, 17 FCC Rcd 1022 (2002).

wireless services where incumbents were originally licensed on a site-by-site basis but were permitted to remain in the band, the Commission also chose to transition to geographic-based overlay licensing including, for example, the 800 MHz Service,<sup>29</sup> the 220 MHz service,<sup>30</sup> and the 929-931 MHz Paging Services.<sup>31</sup> In each instance, the Commission determined that the geographic-area licensing model afforded licensees increased flexibility to construct and operate facilities within a larger geographic area and commence operations without prior Commission approval, thereby reducing regulatory burdens.

## B. CTIA Proposals and Industry Comments on the Record

9. In October 2008, CTIA filed a Petition requesting that the Commission change Cellular licensing from a site-based regime to a geographic area-based regime in all markets and to assign to incumbents, without using competitive bidding, all remaining Unserved Area.<sup>32</sup> In response to the Public Notice seeking comment on CTIA's Petition,<sup>33</sup> 10 parties filed comments,<sup>34</sup> six (including CTIA) filed reply comments,<sup>35</sup> and two (including CTIA) filed *ex parte* letters.<sup>36</sup> In September 2010, CTIA submitted a revised proposal (CTIA Revised Plan) which it asserts "takes into account the objectives and concerns raised by commenters in this proceeding."<sup>37</sup> Thus far, only RTG has filed comments specifically addressing the CTIA Revised Plan.<sup>38</sup> In May 2011, CTIA, GCI Communication Corp. (GCI), NTCA, and RTG met with Commission staff to express their additional views regarding transition approaches for Cellular licensing and, accordingly, filed *ex parte* letters.<sup>39</sup> Subsequently, CTIA, AT&T, Inc. (AT&T) and Verizon Wireless met with Commission staff to express their additional views regarding transition approaches for Cellular licensing and CTIA filed *ex parte* letters accordingly.<sup>40</sup>

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<sup>29</sup> See Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *First Report and Order; Eighth Report and Order; Second Further Notice of Proposed Rulemaking*, PR Docket No. 93-144, 11 FCC Rcd 1463, 1474 (1995).

<sup>30</sup> See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, *Third Report and Order and Fifth Notice of Proposed Rulemaking*, 12 FCC Rcd 10943 (1997).

<sup>31</sup> See Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, *Second Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 2732 (1997).

<sup>32</sup> See generally CTIA Petition.

<sup>33</sup> See *Public Notice*, *supra* note 6.

<sup>34</sup> See Appendix A.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> CTIA Revised Plan, Cover Letter dated Sept. 21, 2010. A key difference between CTIA's Petition and its Revised Plan is that, in the former, CTIA appears to be proposing a transition for all CMA Blocks at the same time, while in the latter, it appears to be proposing a rolling transition, market by market, as each Block reaches CTIA's "Fully Served" benchmark.

<sup>38</sup> See RTG Letter Response, *supra* note 5.

<sup>39</sup> See Letter to Marlene H. Dortch, Secretary of the Commission, dated May 20, 2011, from Brian M. Josef, Assistant Vice President, Regulatory Affairs, CTIA; Letter to Marlene H. Dortch, Secretary of the Commission, dated May 19, 2011, from Paul Margie, Counsel for GCI; Letter to Marlene H. Dortch, Secretary of the Commission, dated May 23, 2011, filed by Jill Canfield, Director, Legal & Industry, NTCA (on behalf of NTCA and RTG).

<sup>40</sup> See Letter to Marlene H. Dortch, Secretary of the Commission (Secretary Dortch), dated Feb. 2, 2012, from Brian M. Josef, Assistant Vice President – Regulatory Affairs, CTIA (Mr. Josef) (documenting a meeting of (continued....))

10. CTIA argues that the existing site-based rules are “antiquated and administratively burdensome”<sup>41</sup> for both licensees and FCC staff because the rules require the filing of an application every time a licensee seeks to make even a minor system modification.<sup>42</sup> For example, under the current licensing paradigm, a Cellular licensee making any system change that would expand or decrease its CGSA must file an application with comprehensive engineering data and technical exhibits, and for CGSA expansions, no matter how small, must receive Commission approval prior to commencing operations.<sup>43</sup> CTIA explains that Cellular site-based licensing “has remained a unique anomaly,” as competing commercial wireless services are licensed based on market areas rather than transmitter sites.<sup>44</sup> In CTIA’s view, site-based licensing is no longer necessary to encourage build-out in markets with minimal remaining Unserved Area and actually hampers the ability of licensees to expand and provide additional coverage.<sup>45</sup> CTIA states that site-based licensing requires constant updating and revision, imposes significant costs on licensees, and is based upon an analog technical model with little relationship to the current deployment of digital services to the public.<sup>46</sup>

11. In its Revised Plan, CTIA requests that the Commission change the Cellular Service to geographic area-based licensing and terminate site-based access to Unserved Area in each CMA Block that is “Fully Served.” CTIA defines a Fully Served Block as one where either: (1) 90% of the total land area is served; or (2) there is no parcel of Unserved Area measuring at least 50 contiguous square miles.<sup>47</sup> Under both prongs, CTIA proposes to exclude “government lands, but not tribal areas.”<sup>48</sup> All Unserved Area in Fully Served Blocks would be assigned to existing incumbents “on a proportional basis” without the use of competitive bidding.<sup>49</sup> CTIA does not propose performance requirements regarding these areas. CTIA estimates that 91% of all Blocks meet its “90% served” test.<sup>50</sup> So long as a CMA Block is “under-served” (*i.e.*, not Fully Served), CTIA proposes that it remain under site-based licensing rules.<sup>51</sup>

12. CTIA’s Revised Plan entails the establishment of fixed license boundaries for all incumbents

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representatives of CTIA, AT&T and Verizon Wireless with Amy Levine, Sr. Legal Advisor to Chairman Genachowski) (Feb. 2, 2012 CTIA *Ex Parte* (Levine)); Letter to Secretary Dortch, dated Feb. 2, 2012, from Mr. Josef (documenting a meeting of representatives of CTIA, AT&T and Verizon Wireless with Louis Peraertz, Legal Advisor to Commissioner Clyburn) (Feb. 2, 2012 CTIA *Ex Parte* (Peraertz)). *See also* Letter to Secretary Dortch, dated Feb. 8, 2012, from Mr. Josef (documenting a meeting of CTIA representatives with Angela Giancarlo, Chief of Staff and Sr. Legal Advisor to Commissioner McDowell) (Feb. 8, 2012 CTIA *Ex Parte* (Giancarlo)); Letter to Secretary Dortch, dated Jan. 24, 2012, from Christopher Guttman-McCabe, Vice President – Regulatory Affairs, CTIA (documenting a voice message left for Roger Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, FCC) (CTIA January 2012 *Ex Parte* (Noel)).

<sup>41</sup> CTIA Revised Plan at 2.

<sup>42</sup> *Id.*

<sup>43</sup> *See* 47 C.F.R. § 22.953.

<sup>44</sup> CTIA Petition at 2.

<sup>45</sup> CTIA Revised Plan at 3.

<sup>46</sup> *See* CTIA Petition at 1-2.

<sup>47</sup> *See, e.g.*, CTIA Revised Plan at 8.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 9.

<sup>50</sup> *Id.* at 4.

<sup>51</sup> *Id.* at 8.

in all CMA Blocks based on existing CGSAs, to be documented by certain specified submissions.<sup>52</sup> Disputes over existing CGSA boundaries and the distribution of the remaining Unserved Area to incumbents would, under CTIA's Revised Plan, need to be resolved through cooperation among licensees and in the event that such cooperative efforts fail, by referral to arbitration at the expense of the referring party.<sup>53</sup> Once fixed boundaries were established, licensees would be permitted to add and modify transmitter sites *within those boundaries* without applications or notification, subject to a 40 dBuV/m median field strength limit,<sup>54</sup> as first proposed by Verizon Wireless.<sup>55</sup> In non-Fully Served Blocks, licensees wishing to expand beyond their established fixed boundaries would need to submit a major modification application for Unserved Area, as under current rules.<sup>56</sup>

13. In support of CTIA's Petition, AT&T asserts, among other things, that changing from analog to digital operations has rendered site-based Cellular licensing obsolete, unnecessarily burdensome, and inefficient and that geographic-area licensing will create regulatory parity among competing services.<sup>57</sup> Verizon Wireless also generally endorses the CTIA Petition<sup>58</sup> but makes various additional proposals, including: (1) a staggered transition process based on regional groupings of CMA Blocks; (2) the provision of public notice of, and opportunity to comment on, claimed licensed area boundaries (*i.e.*, existing CGSAs, including CGSA extensions into adjacent CMAs); and (3) a plan for informal dispute resolution of boundary claims (more detailed than in CTIA's Petition), in which a *de minimis* discrepancy standard would be applied.<sup>59</sup>

14. In contrast, commenters representing the interests of smaller and rural providers<sup>60</sup> generally favor indefinite retention of the current site-based licensing regime.<sup>61</sup> RTG, for example, "continues to believe that there should be no sunset" of this licensing model, as rural carriers still file site-based applications to serve "remote areas or areas with low population density."<sup>62</sup> NTCA, the Rural

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<sup>52</sup> *Id.* at 5-7 (proposing, however, to exempt the Gulf region, *see id.* at 1).

<sup>53</sup> *Id.* at 7, 9.

<sup>54</sup> *Id.* at 5.

<sup>55</sup> *See* Verizon Wireless Comments filed Feb. 23, 2009 at 5. *See also* RTG Comments at 7 (supporting the concept of a field strength limit but not proposing a specific limit for the Cellular Service); United States Cellular Corporation Comments at 1, 4 (same).

<sup>56</sup> *See* CTIA Revised Plan at 5.

<sup>57</sup> *See generally* AT&T Comments filed Feb. 23, 2009. AT&T did not file comments specifically responding to CTIA's Revised Plan.

<sup>58</sup> *See generally* Verizon Wireless Comments. Verizon Wireless did not file comments specifically responding to CTIA's Revised Plan.

<sup>59</sup> Verizon Wireless Comments at 6-7 (suggesting as one possibility a "land area or population variation of 5% or less" as a *de minimis* threshold). Commnet objects particularly to Verizon Wireless's *de minimis* proposal, arguing it would allow a licensee to claim additional area "even if it lies within a co-channel licensee's licensed CGSA, so long as the area . . . is no more than five percent . . . of the victimized licensee's licensed CGSA." Commnet Reply Comments filed Mar. 9, 2009 at 6 (emphasis in original).

<sup>60</sup> For purposes of this *NPRM*, these rural commenters comprise Commnet Wireless, LLC; GCI; NTCA; the Rural Independent Competitive Alliance; and RTG.

<sup>61</sup> *See generally* Comments and (if applicable) Reply Comments filed Mar. 9, 2009 by Commnet; GCI; NTCA; RICA; and RTG. *See also* the Comments filed Feb. 9, 2009 by Broadpoint, Inc. regarding the Gulf region (discussed *infra* Section III.E).

<sup>62</sup> RTG Letter Response at 1-2. *See also* RTG Comments at 3 (stating that, just as large PCS carriers "have little or no incentive to geographically partition their licenses to smaller carriers that would like to provide service to the (continued....)

Independent Competitive Alliance (RICA), Commnet Wireless, LLC (Commnet), and GCI essentially agree.<sup>63</sup> NTCA also claims that its members are asked by their communities to ensure that hikers, hunters, and others enjoying the most rural territory can complete a call in an emergency.<sup>64</sup> Commnet continues to send technicians to Unserved Area to determine if there is demand for service and claims that with most of its Unserved Area applications, the OSL could have applied for that spectrum “over at least sixteen years” but did not do so.<sup>65</sup> GCI, which operates in Alaska, urges continuation of site-based licensing and is concerned it will be unable to improve (or even maintain) its network if the Commission adopts CTIA’s proposal.<sup>66</sup> RTG also criticizes CTIA’s Revised Plan by asserting that it provides no incentive to serve areas obtained through the proposed proportional allotment and that its definition of Fully Served “could leave large areas . . . without service indefinitely.”<sup>67</sup>

15. Comments by smaller and more rural providers largely reject CTIA’s statistics. According to RTG, for example, CTIA’s Petition misleadingly “undercounts actual use of the [site-based licensing] process” by reporting only grants, not filings, and only new applications, not modification applications.<sup>68</sup> RICA, GCI, and NTCA make similar arguments.<sup>69</sup> Several of these commenters are also skeptical of CTIA’s proposed mechanisms for resolving disputes that may arise between adjacent licensees concerning license boundaries.<sup>70</sup> United States Cellular Corporation (USCC), a mid-sized non-rural carrier, argues that a voluntary consultation process is unworkable for dispute resolution without legal standards.<sup>71</sup>

16. USCC generally favors the existing regime but states that issuance of a CMA-based license may be appropriate in limited circumstances. Such circumstances might include where the existing

(Continued from previous page) \_\_\_\_\_

more rural and underserved areas,” the Commission will have the same result here if Cellular site-based licensing is abolished).

<sup>63</sup> See NTCA Comments at 2-3 (stating that OSLs, which have had many years to build out, “should not now receive the exclusive rights to territory they do not serve and may not intend to serve”); RICA Comments at 1, 6 (extolling the efficacy of site-based licensing, stating that RICA members “are willing to commit to the provision of service that the [OSL] has not provided”). See generally Commnet Comments; see also GCI Comments at 3 (contending that the existing regime continues to advance the Commission’s goal of promoting “a seamless and integrated nationwide cellular service, so that subscribers can receive high quality cellular service throughout the nation”).

<sup>64</sup> NTCA Comments at 3.

<sup>65</sup> Commnet Comments at 3-4 (highlighting the frequent need to coordinate with National Park personnel, tribal historic preservation officials, and state environmental officials in determining where to construct and how to connect remote cell sites back to the PSTN), and at 13.

<sup>66</sup> GCI Comments at 9-10 (praising site-based Cellular licensing as the “longest-standing program to encourage . . . investment in wireless technologies”).

<sup>67</sup> RTG Letter Response at 3.

<sup>68</sup> RTG Comments at 3 n.2.

<sup>69</sup> See RICA Comments at 10 (stating that excluding modification applications “grossly understate[s] . . . filings and the resulting instances of service area expansion” and that, during the same period measured by CTIA, 973 modification applications were filed and 749 were granted); GCI Reply Comments at 5; NTCA Comments at 2.

<sup>70</sup> See, e.g., RTG Comments at 7 (arguing that the large carriers have disproportionate bargaining power), and RTG Letter Response at 3 (also rejecting CTIA’s suggestion that non-contractual disputes such as disputes over distribution of Unserved Area among incumbents could be brought before an arbitrator for resolution in the first place); Commnet Comments at 15 (characterizing the proposal as a “recipe for arbitrary and unfair decisions”).

<sup>71</sup> See USCC Reply Comments at 4. See also Comments of MetroPCS Communications, Inc. filed Feb. 23, 2009 (a mid-size commercial wireless licensee that does not hold licenses in the Cellular Service), at 6-9.

incumbent's CGSA already "encompasses virtually the entire market" or where no one other than an OSL "has sought and obtained a [site-based] license during the eighteen years such licenses have been available."<sup>72</sup> USCC argues that site-based licensing should be retained, however, at least in any market with at least one Unserved Area Licensee, so that OSLs and Unserved Area Licensees have equal opportunity to expand their systems.<sup>73</sup>

17. While preferring retention of the existing paradigm, some rural commenters state that they could accept, in the alternative, a limited transition to geographic-area licensing. Their suggestions, however, are not highly detailed. GCI, for example, indicates support for issuance of a CMA-based license if the CGSA is coterminous with the CMA boundary or if Unserved Area in the CMA Block is less than 50 square miles but does not specify how the small areas would be licensed.<sup>74</sup> NTCA suggests that, if an incumbent's "actual service area" is *not* coterminous with the CMA Block boundary, or if there is an Unserved Area parcel that is 50 square miles or larger, the Commission could establish a geographic license but based only on the territory "actually served by the licensee."<sup>75</sup> RTG states that Cellular licensees could "elect . . . to transition to some form of market-based licensing," but only where the new market-based license "would encompass the areas they actually serve."<sup>76</sup> In response to these alternative ideas, Verizon Wireless states that preserving site-based licensing should be limited to areas greater than 50 square miles, with smaller areas "added to the new market-based license area" of the OSL, while AT&T merely states that it is open to "mechanisms to address" Unserved Area in the new Cellular licensing scheme.<sup>77</sup>

18. Commenters differ on the issue of how to assign geographic area licenses. MetroPCS Communications, Inc. (MetroPCS) advocates a transition to geographic-area licensing via auction.<sup>78</sup> In response, USCC argues that an auction is unnecessary in light of the existing normal closed auction process for mutually exclusive Unserved Area applications.<sup>79</sup> AT&T states broadly that, for CMA Blocks with over 50 contiguous square miles of Unserved Area, the Commission should "license that area through an auction or some other process."<sup>80</sup> Subsequently in early 2012, CTIA, AT&T and Verizon

<sup>72</sup> USCC Reply Comments at 3. *See also* USCC Comments at 4.

<sup>73</sup> USCC Comments at 5-6. *See also* USCC Reply Comments at 3.

<sup>74</sup> GCI Comments at 6.

<sup>75</sup> NTCA Comments at 4. NTCA adds that, prior to the Commission's issuance of the new licenses, each licensee should be required to document its "current, actual service territory." *Id.* at 3-4. NTCA further proposes that interested parties should be given an opportunity to challenge the licensee's coverage showing and that if a party could "conclusively show that an incumbent is not actually serving territory that it claims within its coverage area, the disputed territory would be deemed unserved and parties would have an opportunity to file competing applications." *Id.* at 4.

<sup>76</sup> *See* RTG Letter Response at 1 (stating that RTG "was never contacted by CTIA to discuss its Revised . . . Plan and has not agreed to support that plan"). RTG also expresses concerns (*see id.*) about CTIA's proposal to establish a field strength limit. We discuss a proposed signal field strength limit below in Section III.F.

<sup>77</sup> Verizon Wireless Reply Comments at 5; AT&T Reply Comments at 6.

<sup>78</sup> *See, e.g.,* MetroPCS Comments at 2 (citing 47 U.S.C. § 309(j)(3)(c)), arguing that the Commission must comply with "the Congressional mandate for competitive bidding for the allocation of commercial broadband spectrum"). Noting CTIA's argument that the Commission should accord similar services similar regulatory treatment, MetroPCS also argues that CTIA's non-auction approach treats the Cellular transition "in a different and much more incumbent-friendly fashion than any of the other licensing transitions the Commission has effected." *See id.* at 9.

<sup>79</sup> *See* USCC Reply Comments at 3 (citing 47 C.F.R. §§ 22.131 and 22.949(b)(2), and noting that such closed auctions "have seldom proven necessary").

<sup>80</sup> AT&T Reply Comments at 7.

Wireless met with Commission staff, and CTIA filed *Ex Parte* letters accordingly. These letters state that CTIA, AT&T and Verizon Wireless have “concerns with a proposal that would apply an ‘overlay auction’ mechanism, possibly implemented as part of a transition from site-based to geographic licensing, for use in areas that are not substantially served,” without explaining the nature of the concerns.<sup>81</sup> Commnet does not advocate a transition via auction, but emphasizes that the Commission used competitive bidding in prior transitions to geographic area licensing.<sup>82</sup> All other commenters are silent on using an auction for a Cellular licensing transition.<sup>83</sup>

### III. NOTICE OF PROPOSED RULEMAKING

19. This NPRM proposes to eliminate burdensome and time-consuming regulatory processes and to provide licensees with more flexibility to build out and provide service in areas that are currently unlicensed in the Cellular Service. Based on the record, it appears that site-based licensing may unduly limit licensees’ ability in many markets to adapt to technological and marketplace changes, which burdens licensees and consumes FCC staff resources, as application filings are required for even minor technical system changes. These problems can be addressed by moving to a geographic-based model, which would bring the Cellular Service into greater harmony with the more flexible licensing schemes used successfully by other similar mobile services, such as PCS,<sup>84</sup> the 700 MHz Service,<sup>85</sup> and AWS.<sup>86</sup> At the same time, we propose to preserve direct access to Unserved Area through the existing site-based application process for an appropriate period in Cellular Service markets that are less substantially built out.

20. The current site-based licensing model has proven successful over time, as the Cellular Service has achieved widespread construction and service to the public. In anticipation of releasing this *NPRM*, the Commission has undertaken the task of digitizing<sup>87</sup> all existing CGSAs based on maps accompanying Cellular applications.<sup>88</sup> It is clear from our data that the vast majority of CMA Blocks already are substantially built out. Licensees in these markets – which we term “Substantially Licensed”

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<sup>81</sup> See Feb. 2, 2012 CTIA *Ex Parte* (Levine) and Feb. 2, 2012 CTIA *Ex Parte* (Peraertz), *supra* note 40. See also Feb. 8, 2012 CTIA *Ex Parte* (Giancarlo) (stating, with respect to this proceeding, that “CTIA . . . raised concerns with a proposal that would apply an ‘overlay auction’ mechanism, possibly implemented as part of a transition from site-based to geographic licenses, for use in areas that are not substantially served”) and CTIA January 2012 *Ex Parte* (Noel), *supra* note 40.

<sup>82</sup> Commnet Comments at ii, 10. See also *id.* at 2 (asserting that, because the OSLs did not obtain their spectrum at auction, “none of [them] had any incentive (as do auction winners) to put the spectrum to its highest and best use”).

<sup>83</sup> RICA, however, references its filing in a proceeding concerning spectrum caps on commercial terrestrial wireless spectrum below 2.3 GHz (RM No. 11498) and emphasizes its view that “Tier 1 and 2 wireless carriers” should be barred from auctions until the Commission has addressed what RICA describes as Congressional concern about avoiding “excessive concentration of licenses.” RICA Comments at 6-7.

<sup>84</sup> See generally 47 C.F.R. §§ 24.1 *et seq.*

<sup>85</sup> See generally 47 C.F.R. Part 27.

<sup>86</sup> *Id.*

<sup>87</sup> Using specialized computer software, we created a data set (a discrete set of points along each CGSA boundary) using the CGSA maps on file. These data sets are stored electronically and can be used to generate digital representations of the CGSA maps. They can also be used to calculate Unserved Area and licensed area within a particular CMA Block, and to capture other geographical characteristics of the area of interest.

<sup>88</sup> The maps provided at Appendix B summarize our preliminary data. One map shows Unserved Area throughout the continental United States, and the other shows Unserved Area in Alaska. Additional graphics and data are discussed below in Section III.A, B. See also <http://www.fcc.gov/rulemaking/12-40>.

as set forth in Section III.A.1. below – have faced increasing regulatory challenges, however. Among other things, they do not have the ability to modify and expand their systems without Commission filings, and must seek prior Commission approval through filings if the CGSA would be expanded, even for minor adjustments to their systems. We believe that it would serve the public interest to reduce administrative burdens for these licensees (as well as for Commission staff) by providing Cellular licensees in such markets with greater flexibility to modify their operations to respond more quickly to market conditions. Moreover, the Commission has long held that market-based licensing regimes are simpler to administer for all parties.<sup>89</sup>

21. We recognize that, with direct access to Unserved Area through site-based licensing, licensees and prospective new entrants are free to respond to market changes by filing an application on an as-needed basis (for a filing fee) without use of competitive bidding in most cases.<sup>90</sup> We believe that there are public interest benefits of preserving such direct access by all interested parties for any Unserved Area in CMA Blocks that are less substantially built out (*i.e.*, not Substantially Licensed under our proposed test). While site-based application filings would continue to be required for some period going forward in these markets, there is a significantly smaller volume of system modification filings in areas that are less built out.

22. Additionally, in developing a new model aimed at transitioning the Cellular Service to a geographic-based model, we must keep in mind long-held Commission policies governing spectrum assignment. The Balanced Budget Act of 1997 (BBA) revised the Commission's auction authority by substantially amending sections 309(j)(1) and (2) of the Communications Act of 1934, as amended (Act).<sup>91</sup> Under section 309(j)(1),<sup>92</sup> with limited exceptions that are not applicable here, the Commission is required to license spectrum through competitive bidding whenever it accepts mutually exclusive applications<sup>93</sup> for initial licenses or permits.<sup>94</sup> Consistent with the Commission's policy that competitive

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<sup>89</sup> See, *e.g.*, Implementation of Sections 3(n) and 332 of the Communications Act and Regulatory Treatment of Mobile Services, *Third Report and Order*, 9 FCC Rcd 7988, 8044 (1994) (establishing Major Trading Areas as the appropriate geographic area for 800 MHz Specialized Mobile Service licensees).

<sup>90</sup> See discussion *infra* Section III.B.

<sup>91</sup> Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, WT Docket No. 99-87, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 22709 (2000) (*BBA Report and Order*); 47 U.S.C. § 309(j)(1) and (2).

<sup>92</sup> 47 U.S.C. § 309(j)(1).

<sup>93</sup> The Commission has determined that applications are “mutually exclusive” if the grant of one application would effectively preclude the grant of one or more of the other applications, *i.e.*, when acceptable, competing applications for the same license are filed. *BBA Report and Order*, 15 FCC Rcd at 22713, 22714 (citing Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz, WT Docket No. 99-87, RM-9332, RM-9405, *Notice of Proposed Rule Making*, 14 FCC Rcd 5206 (1999)). When the Commission receives only one application that is acceptable for filing for a particular license that is otherwise subject to auction, there is no mutual exclusivity, and thus, the Commission is not required to conduct an auction for that license. *Id.*

<sup>94</sup> *BBA Report and Order*, 15 FCC Rcd at 22716 ¶ 15. Section 309(j)(2) exempts the following from auction: licenses and construction permits for public safety radio services; digital television service licenses and permits given to existing terrestrial broadcast licensees to replace their analog television service licenses; and licenses and construction permits for noncommercial educational broadcast stations and public broadcast stations as described in Section 397(6) of the Act. 47 U.S.C. § 309(j)(2).

bidding places licenses in the hands of those that value the spectrum most highly,<sup>95</sup> we believe that it would be in the public interest to adopt the transition described below, which allows the filing of mutually exclusive applications that would be resolved through competitive bidding.

23. In light of the above-described goals and considerations, we propose to issue CMA-based Overlay Licenses for each Block via Stage I and Stage II auctions, thus making immediately available to the Overlay Licensee, for primary service, all Unserved Area remaining in the particular Block as of an established cut-off date.<sup>96</sup> An overlay license is issued for the entire geographic area (in this case, the entire CMA Block), but requires the overlay licensee to provide interference protection to incumbent operations (in this case, Cellular Service incumbents' CGSAs existing as of a certain cut-off date).

24. In Stage I of the transition, we would offer Overlay Licenses only for those CMA Blocks that either: (1) as of a certain cut-off date, are Substantially Licensed pursuant to certain benchmarks; or (2) have Cellular service that has been authorized solely under interim operating authority (IOA) (*i.e.*, for which no primary license has been issued). The specific benchmarks we propose to apply in determining whether a market is in the Substantially Licensed category, and the underlying data supporting our proposal, are discussed below in Section III.A.1. All other Blocks would remain subject to the existing Unserved Area licensing system until a future date, when we would implement Stage II of the transition and offer Overlay Licenses for these remaining CMA Blocks. We seek comment, as discussed further below, on whether seven years is the appropriate timeframe before initiation of Stage II. Our proposal is discussed in more detail below, in Sections III.A. and B. We seek comment on all aspects of our proposal.

25. We invite comment as well on the expected costs and benefits (to the extent applicable) of operating under our proposal. For example, would the resulting lack of data that would otherwise be collected and available to the public through the Commission's Universal Licensing System and other databases (*i.e.*, data that is currently available regarding major and minor CGSA modification applications, grants, construction notifications, etc., indicating the location of Cellular Service transmitter sites) constitute a detrimental cost? If so, to what extent? Would the cost be outweighed by the benefits associated with the reduction in regulatory burdens, paperwork, and other aspects of our proposal? By reducing the filing burdens on many Cellular providers, we would expect resulting lower costs for the providers, and in turn, we would expect such lower costs to have a positive effect on service to subscribers.<sup>97</sup> We seek comment on these cost considerations, including quantification of expected savings (in terms of monetary and human resources, for example) resulting from no longer having to submit certain applications once fixed boundaries have been established. We also seek comment on the extent to which expected savings might be passed on to subscribers. We hope these proposals will also promote enhanced competitive options for consumers and we seek comment on any additional steps the Commission could take, in this proceeding, to promote this policy priority.

26. For reasons explained below, we propose to exempt the Gulf of Mexico Service Area (GMSA) from the transition. In addition, based on certain industry proposals on the record, discussed above, we propose to establish a signal field strength limit for *all* Cellular licensees in *all* CMA Blocks. Consistent with both the Commission's regulatory reform agenda, noted above, and its Data Innovation

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<sup>95</sup> See, e.g., Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands; Implementation of Section 309(j) of the Communications Act – Competitive Bidding, 37.0-38.6 GHz and 38.6-40.0 GHz, ET Docket No. 95-183, RM-8553, PP Docket No. 93-253, 11 FCC Rcd 4930, 4945 (1995).

<sup>96</sup> Even if no Unserved Area remains in a particular CMA Block as of the established cut-off date, an Overlay License would be offered via competitive bidding for that Block.

<sup>97</sup> See, e.g., 1992 Cellular Second R&O, 7 FCC Rcd 2449, 2450.

Initiative,<sup>98</sup> we also take this opportunity to propose additional changes to certain Cellular rules in Parts 1 and Part 22, including updates to provisions such as those governing application requirements, removal of provisions that we consider outdated going forward,<sup>99</sup> and ministerial corrections. Finally, we seek comment on whether to move the Part 22 Cellular rules, as well as the Part 24 rules, to Part 27.

#### A. Stage I Transition

##### 1. Substantially Licensed CMA Blocks

27. We propose to treat a CMA Block as Substantially Licensed if *either* of the following benchmarks is met: (1) at least 95% of the total land area is licensed; or (2) there is no unlicensed parcel within the Block at least 50 contiguous square miles in size.<sup>100</sup> An analysis of Cellular licensed area by Block reflects that only 20% of the 1,468 CMA Blocks are geographically licensed between less than 10% up to roughly 94%. The vast majority of all Blocks (approximately 80%) fall at or above the 95% licensed threshold, representing in our view a logical breaking point for inclusion in Stage I of the proposed transition.<sup>101</sup> We also recognize, however, that a Block that has less than 95% of its total land area licensed might not have sufficient size parcels of Unserved Area to warrant exclusion from transition in Stage I. Our current rules prohibit a new entrant from applying to serve an area smaller than 50 contiguous square miles.<sup>102</sup> We therefore propose that a Block be deemed Substantially Licensed if it does not have even one remaining unlicensed parcel that is at least 50 contiguous square miles in size, regardless of the percentage of licensed area.<sup>103</sup>

28. We list the Blocks that meet our proposed test in Appendix C. Specifically, 601 of the 734 Block A markets appear to meet the proposed test, and 596 of the 734 Block B markets appear to meet the proposed test, for a total of 1,197 of 1,468 Blocks.<sup>104</sup> We also depict our preliminary data in two additional maps provided in Appendix D.<sup>105</sup> These maps illustrate, for each Block, which markets appear to meet the proposed test and which markets, while served, do not.<sup>106</sup>

29. We propose to include *total* land area without exclusions in our calculation of licensed area and Unserved Area. This contrasts with the Commission's approach in the 700 MHz Service, where

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<sup>98</sup> See Press Release, FCC Launches Data Innovation Initiative (rel. Jun. 29, 2010), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-299269A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299269A1.pdf). See also Pleading Cycle Established for Comments on Review of Wireline Competition Bureau Data Practices, WC Docket No. 10-132, *Public Notice*, 25 FCC Rcd 8213 (WCB 2010); Pleading Cycle Established for Comments on Review of Wireless Competition Bureau Data Practices, WT Docket No. 10-131, *Public Notice*, 25 FCC Rcd 8373 (WTB 2010); Pleading Cycle Established for Comments on Review of Media Bureau Data Practices, MB Docket No. 10-103, *Public Notice*, 25 FCC Rcd 8236 (MB 2010).

<sup>99</sup> For example, as noted above, we propose to delete the data collection requirements concerning cessation of Cellular analog operations (AMPS).

<sup>100</sup> See *infra* note 102 and accompanying text.

<sup>101</sup> See Appendices C and D. Notably, the 80% group represents 51% of the total land mass of all CMAs.

<sup>102</sup> See 47 C.F.R. § 22.951.

<sup>103</sup> The small number of CMA Blocks in this category does not affect the approximate 80%/20% split between the Stage I and Stage II Blocks under our proposal.

<sup>104</sup> These figures regarding Blocks that meet the test do not include the 2 GMSA Blocks.

<sup>105</sup> None of the CMA Blocks in Alaska currently meets our proposed test under either benchmark, and therefore no Alaskan Blocks are currently included in Appendix C.

<sup>106</sup> The provided maps in Appendix D indicate the date as of which the analysis is accurate.

certain 700 MHz Service licensees were permitted to exclude “government lands” from coverage calculation for purposes of compliance with prospective build-out requirements. In the 700 MHz proceeding, the Commission noted the frequent difficulty of, or specific prohibitions barring, in some instances (*e.g.*, a military base), site access to government lands.<sup>107</sup> We propose to treat government lands differently in this Cellular Service transition for two reasons. First, the 700 MHz Service “government lands” exclusion was adopted in conjunction with the imposition of aggressive construction benchmarks, which for the first time included mandatory coverage of geography (rather than population). In our proposed Cellular Service transition, the calculation is not based on a consideration of compliance with future construction benchmarks but is solely for purposes of determining whether a CMA Block meets our test for inclusion in Stage I. Second, in our analysis of digitized CGSAs, we observed that Cellular licensees have frequently applied to provide service to federal lands, as the demand for Cellular service has increased in areas such as national parks.<sup>108</sup> We believe that permitting the exclusion of lands that are already being served as part of a Cellular licensee’s CGSA would provide inaccurate results as to what areas are in fact Substantially Licensed for purposes of inclusion in the appropriate transition stage.

30. Through our proposed transition, an Overlay Licensee would not only have the flexibility to extend service into currently Unserved Area, but also would be able to do so without filing modification applications, with limited exceptions.<sup>109</sup> In addition, in the event that all or a portion of an incumbent’s CGSA is relinquished by that incumbent (*e.g.*, through license cancellation, reduction in CGSA, permanent discontinuance of operations, or failure to renew a license), the Overlay Licensee of that CMA Block would no longer be required to protect the relinquished area and could immediately provide service on a primary basis in that area.<sup>110</sup> We believe that auctioning only the remaining Unserved Area in a particular Block without overlay licensing rights could result in incumbents’ relinquished areas being held in the Commission’s auction inventory and only accessible via a future auction. Our Overlay License proposal will facilitate prompt service to such areas through reduced administrative burdens.

31. Under our proposal, just as incumbents that do not become Overlay Licensees would be assured continued protection from harmful interference within their existing CGSA footprint, they would in turn be obligated to protect the Overlay Licensees from harmful interference. Non-Overlay licensees’ CGSA boundaries would be permanently fixed, insofar as such licensees would not be permitted to expand their CGSAs in Blocks included in the auction, except through contractual arrangements with other licensees. To foster secondary market transactions, we propose to continue to allow licensees to partition their CGSAs and/or disaggregate their authorized spectrum, as well as enter into leasing arrangements, as under our current rules.<sup>111</sup> We seek comment on this proposal. Non-Overlay licensees will also be free to modify their systems in response to market demands without Commission filings, so

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<sup>107</sup> See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, *Second Report and Order*, WT Docket No. 06-150, 22 FCC Rcd 15289, 15350 (2007).

<sup>108</sup> See, *e.g.*, the Reno, NV market digitized CGSA map available at <http://www.fcc.gov/rulemaking/12-40>.

<sup>109</sup> See *infra* note 112 regarding NEPA-triggered filings.

<sup>110</sup> See, *e.g.*, Revision of Part 22 and Part 90 of the Commission’s Rules to Facilitate Future Development of Paging Systems; Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Second Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 96-18, PP Docket No. 93-253, 12 FCC Rcd 2732, 2745 (1997) (*1997 Paging Services Second R&O*); Amendment of the Commission’s Rules Regarding the 37.0-38.6 GHz and 38.6-40 GHz Bands; Implementation of Section 309(j) of the Communications Act – Competitive Bidding, 37.0-38.6 GHz and 38.6-40 GHz, *Report and Order and Second Notice of Proposed Rule Making*, ET Docket No. 95-183, PP Docket No. 93-253, RM-8553, 12 FCC Rcd 18600, 18637-38 (1997) (*1997 39 GHz R&O and Second NPRM*).

<sup>111</sup> See 47 C.F.R. § 22.948.

long as the CGSA would not be expanded (other than through contractual arrangements) or reduced as a result, and subject to any obligations imposed on all licensees.<sup>112</sup>

32. We recognize that in Substantially Licensed markets included in our Stage I transition, the new Overlay Licenses awarded in the auction will be heavily encumbered by the incumbents, whose CGSAs would continue to be entitled to protection from harmful interference. A prospective Overlay Licensee would therefore need to be familiar with incumbent operations and should take care to understand how such operations may affect its ability to execute its business plan.<sup>113</sup> Under delegated authority, the Wireless Telecommunications Bureau (Bureau) will determine, prior to conducting the auctions, what procedures (if any) are warranted to resolve discrepancies and other anomalies in the licensing data in order to establish definitive boundaries of existing authorized CGSAs as of certain cut-off dates. The Bureau will also issue the appropriate Public Notice(s) regarding such procedures. We recognize that, in some Blocks, the remaining Unserved Area as of the auction date may be very small, fragmented, and/or not immediately servable.

## 2. Interim Operating Authority Block (Chambers, Texas, Block A – CMA 672A)

33. Chambers, Texas (CMA 672A) is the only Block for which a Cellular license has never been issued.<sup>114</sup> AT&T Mobility of Galveston LLC (AT&T Galveston) holds an interim operating authorization and provides Cellular service to nearly all of the area in this Block under Call Sign KNKP971.<sup>115</sup> Notably, neither AT&T nor any other commenter has mentioned this unlicensed market thus far in this proceeding. We propose that Chambers be licensed on a geographic area (CMA Block) basis and that it be included in Stage I described above.

34. We propose not to apply our existing rules concerning the various build-out and application phases that have been applicable to other Cellular markets. For example, we propose not to subject Chambers to the Phase I or Phase II licensing processes (and because Phase I has terminated for all other CMA Blocks, we are proposing to delete the provisions that address Phase I applications, and references thereto, throughout the Part 22 Subpart H rules and applicable Part 1 rules).<sup>116</sup> We also propose not to

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<sup>112</sup> For example, certain other filings, such as administrative updates, license renewals, and filings required under the rules implementing the National Environmental Policy Act of 1969, as amended (NEPA) (*see* 47 C.F.R. Part 1, Subpart I, §§ 1.1301 et seq.), would still be required for all licensees.

<sup>113</sup> *See, e.g.*, Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service; and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, *Report and Order*, MM Docket No. 94-131, PP Docket No. 93-253, 10 FCC Rcd 9589, 9604 (1995) (*1995 MDS R&O*) (noting that “MDS is a heavily encumbered service,” with “only small portions . . . unserved” in the majority of the markets and that applicants would need to “carefully ascertain the extent of incumbent operations [as well as] authorized but unconstructed facilities.”).

<sup>114</sup> *See* Cellular Rural Service Areas Auction Scheduled for May 29, 2002, *Public Notice*, 17 FCC Rcd 4135 (2002); Implementation of Competitive Bidding Rules to License Certain Rural Service Areas, *Report and Order*, WT Docket No. 01-32, 17 FCC Rcd 1960 (2002) (providing information about the history of this unlicensed Block); Implementation of Competitive Bidding Rules to License Certain Rural Service Areas, *Notice of Proposed Rule Making*, WT Docket No. 01-32, 16 FCC Rcd 4269 (2001) (same).

<sup>115</sup> *See* KNKP971 IOA; FCC File No. 0004413839 (granted modification application filed by AT&T Galveston to expand service coverage, *see* Wireless Telecommunications Bureau Site-By-Site Action, *Public Notice*, Rep. No. 6637 (Feb. 23, 2011)).

<sup>116</sup> *See* Appendix E.

apply to Chambers the five-year build-out period that is described in section 22.947<sup>117</sup> (and because it has expired for all other CMA Blocks, we are proposing to delete the provisions that address the five-year period, and references thereto, throughout the Part 22 Subpart H rules and applicable Part 1 rules).<sup>118</sup> Consistent with our treatment of newly authorized markets in the 700 MHz proceeding, we propose that the Overlay License for Chambers will terminate automatically if the licensee fails to provide signal coverage and offer service over at least 35% of the geographic area of its license authorization within four years of initial license grant and to at least 70% of the geographic area of its license authorization by the end of the license term.<sup>119</sup> We further propose that, after the build-out requirement has been met, the Chambers Overlay Licensee should be subject to the same rules and obligations that we apply to those that are awarded the Overlay Licenses for all Substantially Licensed Blocks.<sup>120</sup> AT&T Galveston does not have primary authority to operate and would not be afforded incumbent status with respect to any Overlay Licensee resulting from our proposed competitive bidding process.

35. We believe this proposal provides the most efficient and effective means to foster the provision of additional advanced wireless service by a primary licensee to this Texas market. We also believe that our proposed performance obligations are appropriate given the increased regulatory flexibility afforded any Chambers Overlay Licensee under our transition proposal, including the ability to modify system parameters and expand service without application filings in most instances. In short, we believe that our proposal serves the public interest, and we seek comment on all aspects of the proposal, including any foreseeable costs. Commenters that oppose our proposed approach for Chambers should offer a detailed alternative proposal that is consistent with the goals of this proceeding and the Commission's policies as set forth herein, as well as an analysis of the costs and benefits of the alternative proposal.

#### **B. Stage II Transition**

36. As stated above, based on our preliminary data, approximately 20% of all CMA Blocks currently do not meet either of the two benchmarks of our proposed Substantially Licensed test. We believe that the public interest is best served by retaining the existing site-based licensing scheme in these Blocks—primarily Alaska and rural areas out west—to preserve direct access to such area through the Commission's Unserved Area application process during a defined transition period. The reduction in administrative burdens identified above for Stage I markets is substantially smaller for these Blocks that are less built out and have relatively more Unserved Area remaining. In rural areas, service tends to become economically feasible gradually, and modification and new-system applications are filed to a much lesser extent than modification applications in the Blocks that are already substantially built out. This will allow all interested parties, including new entrants, the opportunity to identify the specific areas they wish to serve as service becomes economically feasible in such markets due to changing demographics, technologies, or other factors. Under our current site-based rules, the one-year construction requirement will ensure prompt build-out of areas in these Blocks where licensees seek authorization to provide service.

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<sup>117</sup> 47 C.F.R. § 22.947. For Chambers, as no primary license has been issued, this 5-year period has never commenced.

<sup>118</sup> See Appendix E.

<sup>119</sup> See 47 C.F.R. § 27.14 (setting forth construction requirements and renewal criteria for, *inter alia*, 700 MHz licensees). In the case of automatic license termination, the Chambers license would be returned to the Commission's auction inventory for re-licensing.

<sup>120</sup> See, e.g., *infra* Section III.C. (seeking comment on whether to impose any performance benchmarks or other requirements for Overlay Licenses).

37. We recognize the public interest benefits of having all CMA Blocks under a single geographic area licensing scheme, and therefore we propose to retain the site-based licensing model for a defined period. Specifically, we propose to continue this model for a period of seven years from the date on which revised Cellular Service rules take effect in this proceeding (Effective Date). We seek comment on our Stage II proposal and specifically on our proposed seven-year transitional time period. While we wish to effectuate prompt build-out in the CMA Blocks that do not currently meet the Substantially Licensed test, we recognize that certain markets may present increased challenges to widespread deployment in the near term. We seek comment on whether seven years is the appropriate timeframe that takes into account the goal of ensuring prompt build-out of systems and economic forces that might delay deployment in certain markets or any alternate proposals commenters may have.<sup>121</sup> We also ask that commenters address the costs and benefits of a seven-year transition period, or for any alternate proposals set forth.

38. *Possible Exception for Alaska.* It is likely to be many years before the Alaskan CMA Blocks are substantially built out. We seek comment on whether we should simply retain the *status quo* site-based scheme for Alaska indefinitely, rather than including it with other Blocks in Stage II. Even if we include Alaska in the proposed transition in Stage II, we seek comment on whether it is appropriate to revise the one-year build-out requirement for Alaska so long as it remains subject to site-based licensing. In addressing these issues, we also seek feedback on the costs and benefits of including Alaska in the Stage II transition, as well as revision to the one-year build-out requirement.

39. *Possible Other Exceptions.* We seek comment on whether public interest considerations warrant any exception that we have not considered, *e.g.*, an especially challenging rural market that might require, for example, an extended build-out period, or another kind of exception altogether. Commenters proposing an exception should include details and supporting rationale consistent with the goals of this proceeding and the Commission's policies as set forth herein.

### C. Performance Requirements

40. We are mindful of our statutory obligation and overarching policy goal of ensuring that the spectrum is used effectively and efficiently to provide valuable services to the American public, including those residing in rural areas, and that the spectrum not be warehoused when it could be deployed using new technologies and services. We also recognize that the Cellular Service has, in most CMAs across the country, already resulted in significant levels of system deployment during the past few decades. Indeed, the level of build-out far exceeds even the most stringent geographic-based construction benchmarks the Commission has imposed on any wireless service to foster public interest goals. In the area not Substantially Licensed – 20% of the CMA Blocks – the current level of build-out varies significantly, as discussed above, with most above 70% geographic coverage, and a few below 10% geographic coverage (*e.g.*, certain Alaskan CMA Blocks), with the rest somewhere in between.<sup>122</sup>

41. We seek comment on whether we should adopt any performance benchmarks for Overlay Licenses to promote build-out in areas covered by these licenses where spectrum is unused and the costs and benefits of doing so. If we decide to adopt performance benchmarks, what would the measures be? Should certain categories of CMA Blocks be subject to different benchmarks given varying levels of deployment among the different CMA Blocks across the country? For instance, should they differ with respect to the CMA Blocks included in Stage I, where almost all of the CMA Block has been built out, compared to Stage II, where there is less build-out and more variance among the Blocks? Would it be appropriate to establish build-out requirements that vary depending on the amount of Unserved Area

<sup>121</sup> See also *infra* Section III.G. (seeking comment on alternative transition approaches).

<sup>122</sup> See <http://www.fcc.gov/rulemaking/12-40>.

remaining, or for CMA Blocks that face particular construction challenges (*e.g.*, Alaska)? If so, what should those varying requirements be, and on what basis would the requirements apply to specific Blocks, and what would be the costs and benefits of the variation? Would varying requirements be unduly cumbersome? In seeking comment, we note that the Commission has never established performance requirements in similar services mandating 100% build-out of all areas or population centers in a geographic-based license.

42. We also seek comment on whether, in place of or in addition to performance build-out requirements, we should require an Overlay Licensee to make unused spectrum available in the secondary market to entities that have need for it. Our goal in adopting any such requirement would be to help ensure that spectrum does not lie fallow where there is real demand for its use. In exploring such an approach, we recognize that there could be valid reasons why spectrum may remain unused. We also note that, under our existing secondary market policies and rules, many entities have successfully used secondary market transactions—including spectrum leasing, partitioning, and disaggregation—to transfer spectrum usage rights to entities that then employ the previously unused spectrum in providing new services to the American public. At the same time, we recognize there may be situations in which secondary market transactions involving unused spectrum do not occur. Accordingly, we take the opportunity in this proceeding to inquire whether there is more that the Commission should do to promote secondary market solutions where spectrum held by the Overlay Licensee continues to be unused.

43. Specifically, we request comment on various possible approaches for facilitating secondary market transactions for use of spectrum that the Overlay Licensee is not using or may not be inclined to use. As one possible approach, we seek comment on whether Overlay Licensees that continue to hold unused spectrum after a certain period of time should be required to make that information publicly available, in some readily accessible and transparent fashion, so that any party interested in using that spectrum can more easily seek to take advantage of the opportunity to gain access to the spectrum. Might such an approach be helpful in promoting productive use of this spectrum? If so, what specific information (*e.g.*, location and identification of the unused spectrum, point of contact, initial price offering) would be most useful to stimulating secondary market transactions? At what point after issuing the Overlay License should the licensee be required to make such information available? Should the licensee be required to provide such information even if it already has built out some specified portion of the Overlay License area? If we were to require the licensee to provide information on unused spectrum, how should this information be made publicly available so that appropriate information is readily accessible and transparent for potentially interested parties? Should the licensee, for instance, be required to make this information available to the Commission, which could then post the information for potentially interested parties? Can such an approach be designed in a way that would serve to reveal the value of unused spectrum to existing licensees and promote the transfer of usage rights to other parties that value it more highly and would use it to provide services to the American public? We also seek comment on the possible costs and benefits of pursuing this secondary market transparency approach.

44. As another possible approach, should Overlay Licensees be required to participate in good faith negotiations with a party expressing an interest in spectrum leasing, partitioning, or disaggregating spectrum in a CMA Block? If so, what specific good faith negotiation processes should we require, and what is the appropriate timeframe for application of such an access model?<sup>123</sup> Or, should we consider a

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<sup>123</sup> See, *e.g.*, Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, *Notice of Proposed Rulemaking*, WT Docket No. 07-195, 22 FCC Rcd 17035, 17083-89 (2007) (*2007 AWS NPRM*) (subsequent history omitted) (discussing at length various possible performance requirements). In the March, 2011 Native Nations Notice of Proposed Rulemaking, the Commission discussed the potential for requiring good faith negotiations to address difficulties that Tribes have detailed in securing spectrum access from existing wireless licensees whose licenses cover Tribal Land areas. See *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum Over Tribal Lands*, *Notice of Proposed Rulemaking*, WT Docket No. 11-40, 26 FCC (continued....)

modified version of negotiation methodologies employed in other wireless services, possibly involving phases of voluntary negotiations, followed by mandatory negotiations?<sup>124</sup> What are the relative benefits and costs to such an approach in the context of Overlay Licenses?

45. In considering various approaches, we request that commenters address any difficulties they may have experienced when seeking to access unused spectrum in secondary markets transactions that could inform our decision-making and could improve the workings of secondary markets with respect to unused spectrum associated with Overlay Licenses. Finally, we seek comment on any other approach that commenters may suggest that could facilitate secondary market transactions that help ensure that valuable spectrum resources do not needlessly lie fallow.

#### **D. Competitive Bidding Procedures**

46. As stated above, consistent with the Commission's approach in prior transitions of other services from site-based to geographic area-based overlay licensing,<sup>125</sup> we believe that it serves the public interest to accept competing, mutually exclusive applications in our proposed transition of Cellular licensing that will be resolved by competitive bidding.<sup>126</sup> We reiterate that we are interested in reducing regulatory burdens and affording increased system flexibility (including deployment of broadband service) within fixed boundaries for Cellular licensees, but in a manner that is consistent with Commission precedent and spectrum management policies. No commenter has offered a justification for departing from a transition approach under which we accept mutually exclusive applications. Competitive bidding should place Cellular Overlay Licenses in the hands of those that value them most.

47. In the event we adopt our proposal for a transition entailing competitive bidding, we propose to apply the general competitive bidding rules set forth in Part 1, Subpart Q of the Commission's rules, substantially consistent with the bidding procedures that have been employed in previous auctions. Specifically, we propose to employ the Part 1 rules governing competitive bidding design, designated entity preferences, unjust enrichment, application and payment procedures, reporting requirements, and the prohibition on certain communications between auction applicants.<sup>127</sup> Under this proposal, such rules would be subject to any modifications that the Commission may adopt in the future.<sup>128</sup> In addition, consistent with our long-standing approach, auction-specific matters such as the competitive bidding design and mechanisms, as well as minimum opening bids and/or reserve prices, would be determined by

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Rcd 2623, 2637-40 (2011) (also stating that the approaches in the NPRM were crafted to address the unique circumstances of underserved Tribal lands).

<sup>124</sup> See, e.g., *supra* note 29; see also Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket 02-55, 19 FCC Rcd 14969 (2004).

<sup>125</sup> See *supra* ¶ 8.

<sup>126</sup> While only MetroPCS advocates a transition via auction, see generally MetroPCS Comments, CTIA recognizes that the Commission's prior transitions of other services from site-based licensing to geographic area-based licensing have entailed an approach under which mutually exclusive applications are accepted and then resolved through auction, see CTIA Petition at 11-13 (citations omitted).

<sup>127</sup> See 47 C.F.R. § 1.2101 *et seq.*

<sup>128</sup> See Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, *Report and Order*, WT Docket No. 05-211, 21 FCC Rcd 891 (2006) (*CSEA/Part 1 Report and Order*); *Second Report and Order and Second Further Notice of Proposed Rule Making*, 21 FCC Rcd 4753 (2006) (*CSEA/Part 1 Second Report and Order*); *Order on Reconsideration of the Second Report and Order*, 21 FCC Rcd 6703 (2006) (*CSEA/Part 1 Second Report and Order's First Reconsideration Order*); *Second Order on Reconsideration of the Second Report and Order*, 23 FCC Rcd 5425 (2008).

the Bureau pursuant to its delegated authority.<sup>129</sup> We invite comment on this proposal. In particular, we request comment on whether any of our Part 1 competitive bidding rules or other auction procedures would be inappropriate or should be modified for an auction of Cellular licenses in the context of this proceeding.

48. *Provisions for Designated Entities.* In authorizing the Commission to use competitive bidding, Congress mandated that the Commission “ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services.”<sup>130</sup> In addition, section 309(j)(3)(B) of the Act provides that, in establishing eligibility criteria and bidding methodologies, the Commission shall promote “economic opportunity and competition . . . by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.”<sup>131</sup> One of the principal means by which the Commission fulfills these mandates is through the award of bidding credits to small businesses.

49. The Commission has stated that it would define eligibility requirements for small businesses on a service-specific basis, taking into account the capital requirements and other characteristics of each particular service in establishing the appropriate threshold.<sup>132</sup> Although it has standardized many of its auction rules, the Commission has determined that it will continue a service-by-service approach to defining small businesses.<sup>133</sup>

50. The Commission’s experience with numerous auctions has demonstrated that bidding credits for designated entities afford such entities substantial opportunity to compete with larger businesses for spectrum licenses and provide spectrum-based services.<sup>134</sup> In adopting size standards for auctions of Cellular licenses covering RSAs, the Commission noted that the markets at issue could attract a wide range of entities and therefore decided to establish three small business definitions and associated levels

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<sup>129</sup> See 47 C.F.R. §§ 0.131(c), 0.331. See also Amendment of Part 1 of the Commission’s Rules—Competitive Bidding Procedures, *Third Report and Order and Second Further Notice of Proposed Rule Making*, WT Docket No. 97-82, 13 FCC Rcd 374, 448-49, 454-55 (1997) (directing the Bureau to seek comment on specific mechanisms relating to auction conduct pursuant to the BBA) (*Part 1 Third Report and Order*).

<sup>130</sup> See 47 U.S.C. § 309(j)(4)(D).

<sup>131</sup> See 47 U.S.C. § 309(j)(3)(B).

<sup>132</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Second Memorandum Opinion and Order*, 9 FCC Rcd 7245, 7269 (1994) (*Competitive Bidding Second Memorandum Opinion and Order*).

<sup>133</sup> *Part 1 Third Report and Order*, 13 FCC Rcd at 388.

<sup>134</sup> See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket Nos. 96-86, 01-309, 03-264, 06-150, and 06-169, CC Docket No. 94-102, and PS Docket No. 06-229, 22 FCC Rcd 8064, 8089 (2007) (*700 MHz Report and Order* and *700 MHz Further Notice*, respectively).

of bidding credits.<sup>135</sup> Two of the definitions the Commission adopted for Cellular RSA licenses, average annual gross revenues not exceeding \$40 million and average annual gross revenues not exceeding \$15 million, were consistent with the small business definitions it had established for the PCS C and F blocks, based on similarities between PCS and Cellular service.<sup>136</sup> Because the Cellular RSAs were relatively small rural markets, however, the Commission decided that smaller businesses might be interested in acquiring licenses to provide service in such markets and could benefit from bidding credits. For this reason the Commission adopted a third small business definition for Cellular RSA licenses, for entities with average annual gross revenues not exceeding \$3 million.<sup>137</sup>

51. We believe the same reasoning applies to the Cellular Overlay Licenses to be offered under our transition proposal. Accordingly, we propose to employ the following three small business definitions for auctions of these licenses. We seek comment on whether we should define an entrepreneur as an entity with average gross revenues for the preceding three years not exceeding \$40 million, a small business as an entity with average gross revenues for the preceding three years not exceeding \$15 million, and a very small business as an entity with average gross revenues for the preceding three years not exceeding \$3 million. As provided in section 1.2110(f)(2) of our rules, we seek comment on whether we should offer entrepreneurs a bidding credit of 15 percent, small businesses a bidding credit of 25 percent, and very small businesses a bidding credit of 35 percent.<sup>138</sup> Commenters are encouraged to provide feedback on the costs and benefits of these proposed definitions and bidding credit designations. We also invite input on whether alternative size standards should be established in light of the particular circumstances or requirements that may apply to the proposed Cellular Overlay Licenses. Commenters advocating alternatives should explain the basis for their proposed alternatives, including whether anything about the characteristics or capital requirements of providing Cellular service or other considerations require a different approach, as well as the costs and benefits of the alternatives.

#### **E. Gulf of Mexico Service Area**

52. Cellular service in the Gulf of Mexico Service Area (GMSA) (CMA Blocks 306A and 306B) is subject to special licensing rules. The GMSA is divided by rule into two zones: the Coastal Zone (GMCZ) in the Eastern Gulf region and the Exclusive Zone (GMEZ).<sup>139</sup> Broadpoint, Inc. (Broadpoint), a GMSA operator, raises concerns about changing the rules for the GMEZ.<sup>140</sup> While Broadpoint limits its

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<sup>135</sup> Implementation of Competitive Bidding Rules to License Certain Rural Service Areas, *Notice of Proposed Rule Making*, WT Docket No. 01-32, 16 FCC Rcd 4296, 4303 (2001) (*Cellular RSA NPRM*), *Report and Order*, 17 FCC Rcd 1960, 1974 (2002) (*Cellular RSA R&O*).

<sup>136</sup> See *Cellular RSA NPRM*, 16 FCC Rcd at 4303; *Cellular RSA R&O*, 17 FCC Rcd 1960, 1974. In our auctions of broadband PCS C and F block licenses, we have provided bidding credits to entities with average annual gross revenues for the preceding three years not exceeding \$40 million and entities with average annual gross revenues for the preceding three years not exceeding \$15 million. See 47 C.F.R. § 24.720(b)(1)-(2).

<sup>137</sup> *Cellular RSA R&O*, 17 FCC Rcd at 1974.

<sup>138</sup> See 47 C.F.R. § 1.2110(f)(2).

<sup>139</sup> The GMEZ is governed by its own geographic area-based licensing scheme, while Unserved Area licensing rules apply in the GMCZ, where there are no offshore oil and gas drilling platforms on which to site Cellular facilities. See 47 C.F.R. § 22.950. See also *id.* §§ 22.911(a)(2), 22.912(b)(2); Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico; Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, *Report and Order*, CC Docket Nos. 97-112 and 90-6, 17 FCC Rcd 1209 (2002) (explaining the rules adopted and also providing extensive history and background on Cellular licensing in the GMSA) (*2002 GMSA R&O*) (prior history omitted).

<sup>140</sup> See generally Broadpoint Comments.

comments to the GMEZ, CTIA asserts in its Revised Plan that the entire GMSA should be exempted from any Cellular licensing transition.<sup>141</sup>

53. The existing Cellular licensing regime for the GMSA was carefully developed by the Commission after taking into account many prior disputes between Gulf-based and adjacent land-based carriers, multiple prior Commission decisions, court litigation and judicial rulings,<sup>142</sup> as well as the unique circumstances of providing Cellular service in the Gulf region. We propose not to alter the existing regime, except that we propose to subject GMSA licensees to our proposed field strength limit, discussed below. We also believe that GMSA licensees may benefit from certain other rule changes proposed in this *NPRM*. We seek comment on our proposed exemption of the GMSA from a Cellular licensing transition at this time, including comment on which (if any) individual rule changes should be applied to GMSA licensees.

#### F. Signal Field Strength Limit Proposal

54. We agree with commenters that support subjecting Cellular licensees to a signal field strength limit at their respective license boundaries.<sup>143</sup> We believe that a median field strength limit of 40 dB $\mu$ V/m is appropriate and propose that all Cellular licensees be subject to this limit in all CMA Blocks. With an established field strength limit applicable to all Cellular licensees, the current rule governing Service Area Boundary (SAB) extensions would be unnecessary, even in those CMA Blocks that remain subject to the current site-based licensing rules for Unserved Area.<sup>144</sup> In the latter class of CMA Blocks, however, SABs and CGSAs (for new systems and expansions of existing systems) would still be calculated under the provisions currently set forth in section 22.911.<sup>145</sup> We seek comment on our proposal.

55. An appropriate field strength limit allows a licensee to transmit at a signal strength sufficient to provide reliable service right up to the license boundary, while preventing the licensee from transmitting at a signal strength that is excessive for that purpose. Having a 47 dB $\mu$ V/m field strength limit for PCS, for example, has worked effectively as a limit on the amount of signal incursion a licensee may have into an adjacent licensed area, and we believe that a 40 dB $\mu$ V/m field strength limit will be similarly effective for the Cellular Service.<sup>146</sup> While we recognize that 40 dB $\mu$ V/m represents a stronger

<sup>141</sup> See CTIA Revised Plan at 4.

<sup>142</sup> See 2002 GMSA R&O, *supra* note 139.

<sup>143</sup> See Verizon Wireless Comments at 4-5; RTG Comments at 7. See also USCC Reply Comments at 1, 4; CTIA Revised Plan at 7.

<sup>144</sup> 47 C.F.R. § 22.912. Licensees in the GMEZ (*see id.* § 22.912(b)(2)) may need to account for any differences in calculation methodology necessitated by the over-water portion of the path (or use actual measurements). Our proposed field strength limit would not be used to determine service coverage and would not replace the formula in 47 C.F.R. § 22.911 for site-based applications in CMA Blocks that continue to be governed by the existing rules (not included in the Stage I auction).

<sup>145</sup> 47 C.F.R. § 22.911.

<sup>146</sup> The field strength limit we are proposing for the Cellular Service appears on its face to be lower than the existing broadband PCS field strength limit, yet it is comparable in effect. This is because the Cellular frequency (~ 880 MHz) is lower than the PCS frequency (~ 1950 MHz), and consequently, the wavelength of a Cellular wave is approximately 2.2 times larger than that of a broadband PCS wave. The difference in wavelength means that the physical capture area of a Cellular antenna is approximately  $2.2^2 = 4.8$  times larger than that of an equivalent gain PCS antenna. In decibels, this ratio is calculated as follows:  $20 \times \log(1950 \div 880) = 6.9$  dB, which rounds to 7 dB. Thus, assuming equivalent gain antennas, a field strength of 40 dB $\mu$ V/m at 880 MHz produces the same power at the receiver input terminal (- 96 dBm, assuming a 0 dBi gain antenna ) as does a field strength of 47 dB $\mu$ V/m at 1950 MHz.

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field strength compared to 32 dB $\mu$ V/m, we do not anticipate a notable increase in boundary disputes if we adopt our proposal. There is no evidence of a causal relationship between boundary disputes and a field strength limit if the limit applies equally to all licensees in a given service.<sup>147</sup> In cases where adjacent Cellular licensees have a contractual agreement in place today, median field strength could already be higher than 32 dB $\mu$ V/m, and indeed could already be higher than 40 dB $\mu$ V/m.

56. We believe that co-channel licensees are themselves in the best position to negotiate the placement and parameters of facilities near the boundary of another licensee's protected area, taking into account the factors unique to their systems and the area involved, including, for example, technologies, traffic loading, topography, and location of major roads. Thus, consistent with the PCS field strength limit rules,<sup>148</sup> we also propose to allow Cellular licensees to negotiate contractual agreements specifying field strength limits different from the limit established by rule.<sup>149</sup>

57. Even with full compliance with the proposed field strength limit, licensees operating in proximity to each other will still need to coordinate channel usage in order to avoid mutually destructive interference. Section 22.907 of our rules requires that interference problems (and any possible problems with traffic capture)<sup>150</sup> in the Cellular Service be avoided by coordination between or among licensees, *e.g.*, through channel choice, sectors, codes, site locations, antenna patterns, and azimuths. Section 22.907 is technology-neutral and has been successful thus far in preventing an excessive quantity of interference complaints from Cellular licensees. Therefore, we propose to retain the requirements for mandatory coordination that are currently set forth in section 22.907.<sup>151</sup>

58. We encourage parties to address all aspects of our proposal concerning a field strength limit and continued mandatory licensee coordination. Interested parties that offer a counter-proposal, whether for a different field strength limit or non-use of any signal field strength limit, should be specific and explain how their proposal better serves the public interest, including whether it would be more cost effective.

#### **G. Other Alternatives to the Commission's Proposed Transition**

59. *Single-stage Transition for All Blocks.* We seek comment on the possibility of eliminating the site-based licensing scheme and transitioning expeditiously, via a single auction, all CMA Blocks to a geographic-based model. Commenters should address the impact of such a proposal on rural service and rural interests in particular, given that once an Overlay License is offered at auction, the Unserved Area in that particular Block would no longer be available under site-based licensing, even if the Overlay License

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<sup>147</sup> There have been very few boundary disputes among PCS licensees, for example, which are subject to a field strength limit of 47 dB $\mu$ V/m at their respective license boundaries. Moreover, as PCS rules also permit negotiated departures from the applicable limit, PCS licensees may be operating with field strength limits that exceed 47 dB $\mu$ V/m.

<sup>148</sup> See 47 C.F.R. § 24.236.

<sup>149</sup> While licensees would be free under our proposal to negotiate a different field strength limit from the limit that is ultimately adopted in this proceeding, we emphasize that Commission rules do not allow licensees to agree to transmit their signals at a power level that is higher than the applicable power limit set forth in the rules.

<sup>150</sup> Traffic capture has not been a problem in Cellular digital systems (or in PCS systems) because of seamless national coverage using the various technologies available today. With Cellular analog systems, issues with traffic capture could arise because of relative differences between the signal levels of the home system and the roaming system (and "roamers" might be charged higher rates). So long as the same signal level applies to all systems, traffic capture concerns generally do not arise.

<sup>151</sup> 47 C.F.R. § 22.907.

returns to the Commission for re-licensing. For example, if there is no successful bidder at auction, or if a successful bidder is awarded the Overlay License but then, years later, fails to renew, the only methodology for re-licensing is to offer the Overlay License again at a subsequent Commission auction. We seek comment on these considerations under this alternate approach.

60. *A Three-Stage Transition.* As another alternative, we could subdivide the Blocks that do not now meet the Substantially Licensed test into two groups, as there may be some markets that need even more time, such as those in Alaska and other very rural areas with similar construction challenges, resulting in a third stage in the Cellular licensing transition. We seek specific comment on this approach as well. For example, what benchmarks should be used to distinguish the Stage II Blocks from the Stage III Blocks, and what is the basis for choosing such benchmarks? What would be an appropriate dividing line in terms of licensed area? What should the trigger dates be for Stage II and Stage III, and what would be the rationale? We also seek comment on whether all Blocks with unique construction challenges should be subject to an extended build-out requirement while they remain under the site-based licensing regime.

61. *Other Alternatives.* We also welcome submission of alternatives that we have not considered herein. Commenters who oppose our two-stage proposal and advocate an alternative need to address details of implementation and should demonstrate how their alternative serves the public interest and is cost effective.

## **H. Proposed Amendments to Rules and Possible Rule Relocation**

### **1. Proposed Amendments**

#### **a. Transition-related Amendments**

62. Proposed new and revised rules to reflect the proposed two-stage transition of Cellular licensing are set forth in Appendix E (Rules Appendix). We urge all parties to review the Rules Appendix closely and submit detailed comments. Our proposals introduce some new terminology, including for incumbent operations, and we also propose revisions and some deletions regarding the definitions in rule section 22.99.<sup>152</sup>

#### **b. AMPS-related Data Collection; Other Deletions and Updates**

63. Although we are not proposing immediate fundamental changes to the rules for CMA Blocks that are not to be included in the Stage I transition (except for the proposed establishment of a signal field strength limit), we have reviewed all the Subpart H rules as well as certain Part 1 rules applicable to Cellular licensing in an effort to streamline or update them, and we propose certain changes.<sup>153</sup> We have also reviewed these rules to determine whether any should be deleted as obsolete or, going forward, no longer necessary. For example, we believe that certain items required under sections 22.929<sup>154</sup> and 22.953(a)<sup>155</sup> will no longer be routinely of interest to the Commission's engineering staff in their review of Cellular applications in the future,<sup>156</sup> and accordingly, we propose to streamline these requirements in a

<sup>152</sup> 47 C.F.R. § 22.99.

<sup>153</sup> See Appendix E.

<sup>154</sup> 47 C.F.R. § 22.929.

<sup>155</sup> 47 C.F.R. § 22.953(a)(4)-(10).

<sup>156</sup> In addition, the Bureau is in the process of implementing electronic filing of the large-scale Cellular maps required to be submitted under 47 C.F.R. § 22.953(a), pursuant to delegated authority and rules adopted in the ULS proceeding to eliminate paper filings. See 47 C.F.R. § 1.913(b); Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order*, WT (continued....)

revised section 22.953 (and a corresponding deletion of section 22.929). In addition, with sunset of the requirement to provide analog Cellular service, all of section 22.901(b)<sup>157</sup> has been rendered moot (discussed further below) and we therefore propose to delete it.<sup>158</sup> The results of our review are reflected in the proposed rules set forth in the Rules Appendix. We invite all commenters to review each of the proposed revisions and deletions and comment on them with specificity. If there are other rules that commenters believe should be revised or deleted as part of our effort to streamline and update the rules that govern Cellular licensees, we welcome suggestions regarding such revisions. Commenters should be specific in their proposals, providing proposed language for the rule itself as well as the rationale for the change.

64. *AMPS Sunset Certifications: Termination of Collection; Deletion of Section 22.901(b)*. On June 15, 2007, the Commission released an Order declining to extend the sunset of the Cellular analog service requirement set forth in section 22.901(b) of our rules.<sup>159</sup> Pursuant to the *2007 AMPS Sunset Order*, on November 16, 2007, the Bureau released a Public Notice with instructions for Cellular licensees on how to file a one-time Cellular Coverage Certification (AMPS Sunset Certification), which would certify that discontinuance of analog service would not result in any loss of wireless coverage throughout the CGSA.<sup>160</sup> By filing an AMPS Sunset Certification, licensees could preserve the rights associated with their previously determined CGSAs on file with the Commission as of the AMPS Sunset Certification's filing date.<sup>161</sup> The overwhelming majority of Cellular licensees have opted to file an AMPS Sunset Certification. We believe that all Cellular licensees have had ample time—more than four years since the *AMPS Instructions Notice*—to make their choice and file either the one-time AMPS Sunset Certification or the appropriate revised CGSA showing.<sup>162</sup> Accordingly, we propose to terminate

(Continued from previous page) \_\_\_\_\_  
Docket No. 98-20, 13 FCC Rcd 21027, 21094 (1998), *recon. granted in part*, 14 FCC Rcd 11476, 11492 (1999). As a step in that process, the Bureau has announced optional electronic filing of such maps. See “Wireless Telecommunications Bureau Announces Electronic Filing Option for Cellular Radiotelephone Service Full-Size Maps,” *Public Notice*, 26 FCC Rcd 11475 (WTB 2011). We hereby reaffirm the Bureau's delegated authority to issue further Public Notices, as it deems appropriate, with instructions for applicants that are required to submit exhibits with their Cellular applications, including the effective date of mandatory electronic filing of the full-size Cellular maps, and with instructions for the public regarding access to such submissions.

<sup>157</sup> 47 C.F.R. § 22.901(b).

<sup>158</sup> See also *supra* ¶ 34 (discussing proposed deletion of provisions regarding the initial 5-year build-out period, and references thereto, as well as provisions regarding Phase I applications, and references thereto).

<sup>159</sup> See *Sunset of the Cellular Radiotelephone Service Analog Service Requirement and Related Matters, Memorandum Opinion and Order*, RM No. 11355, 22 FCC Rcd 11243 (2007) (*2007 AMPS Sunset Order*); 47 C.F.R. § 22.901(b).

<sup>160</sup> See *Wireless Telecommunications Bureau Provides Instructions for Electronic Filing of Cellular Coverage Certifications, Public Notice*, 22 FCC Rcd 19922 (WTB 2007) (*AMPS Instructions Notice*).

<sup>161</sup> *2007 AMPS Sunset Order*, 22 FCC Rcd at 11266-67. CTIA asserts that, in light of the AMPS Sunset, “CGSAs on record may understate digital coverage” and that “such existing digital coverage should be recognized and protected.” CTIA Petition at 7. The AMPS Sunset Certification process established by the Commission permitted incumbents to *maintain* their analog-determined CGSA (on file with the Commission as of the Certification filing date). See *2007 AMPS Sunset Order*, 22 FCC Rcd at 11267. We reiterate that it is a licensee's obligation to file the appropriate modification application seeking approval of any changes to the CGSA, including changes that may have resulted from a switch from analog to digital operations. We also reiterate that licensees have had ample opportunity since the AMPS Instructions Notice was released in November 2007 to file applications concerning CGSA changes resulting from the cessation of analog operations.

<sup>162</sup> A Cellular licensee could also opt to make no filing if, in transitioning from analog to digital technology, there was no effect on its CGSA-defining location, power, or height parameters. See *2007 AMPS Sunset Order*, 22 FCC Rcd at 11267.

the Commission's collection of such Certifications<sup>163</sup> and to delete section 22.901(b). We welcome comment on these proposals.

## 2. Possible Relocation of Part 22 Cellular and Part 24 PCS Rules to Part 27

65. In light of our proposal to revise the Cellular licensing rules to bring them in line with the more flexible rules that govern other wireless services, we take this opportunity to invite comment on placement of revised rules that may ultimately be adopted in this proceeding. Specifically, in the event that we adopt a geographic area regime that includes Overlay Licenses, should the new Cellular rules be incorporated into Part 27, which houses the existing rules for certain other flexible wireless services, such as AWS, rather than in Subpart H of Part 22? If the revised Cellular rules are to be incorporated into Part 27, we believe that the rules for Part 24 PCS—which is already a flexible service governed by geographic area-based licensing—should then also be moved into Part 27. Should the Commission initiate a separate rulemaking to revise the Part 27 rules and reserve the possible relocation of Cellular and PCS rules to that separate proceeding? We welcome comment on such relocations and the optimal timing for them.

## 3. Proposed Correction of Section 1.958(d)

66. We take this opportunity to propose correction of a clerical error in the distance computation formula in section 1.958(d) of our rules.<sup>164</sup> The error was introduced in the process of moving the provision containing the formula from Part 22 (section 22.157) to Subpart F of Part 1.<sup>165</sup> The proposed correction is included in the Rules Appendix of this *NPRM*.

# IV. ORDER

## A. Suspension of Certain Filings

67. To permit the orderly and effective resolution of the fundamental changes and issues we raise herein, and consistent with our actions in numerous prior proceedings,<sup>166</sup> we find it appropriate to

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<sup>163</sup> See AMPS Instructions Notice, 22 FCC Rcd at 19923 (referencing <http://wireless.fcc.gov/services/cellular/> with instructions for attaching a Certification at the Cellular Coverage Certifications Submission page).

<sup>164</sup> 47 C.F.R. § 1.958(d).

<sup>165</sup> See Amendment of Part 22 of the Commission's Rules To Benefit the Consumers of Air-Ground Telecommunications Services, *Report and Order and Notice of Proposed Rule Making*, WT Docket No. 03-103, 20 FCC Rcd 4403, 4448-49 (2005). See also Letter to Marlene H. Dortch, Secretary of the Commission, from Dane E. Ericksen, Hammett & Edison, Inc., dated Mar. 21, 2011 (regarding, *inter alia*, this clerical error in 47 C.F.R. § 1.958(d)).

<sup>166</sup> See, e.g., Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Notice of Proposed Rule Making and Memorandum Opinion and Order*, WT Docket No. 03-66, RM-10586, 18 FCC Rcd 6722, 6813-14 (2003) (*2003 ITFS NPRM*); Amendment of the Commission's Rules Concerning Maritime Communications, *Fourth Report and Order and Third Further Notice of Proposed Rulemaking*, 15 FCC Rcd 22585, 22621-22 (2000) (*2000 Maritime Services FNPRM*); Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, *Notice of Proposed Rulemaking*, 11 FCC Rcd 3108, 3136-37 (1996) (*1996 Paging Services NPRM*); Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool; Implementation of Section 309(j) of the Communications Act – Competitive Bidding and Implementation of Sections 3(n) and 322 [sic] of the Communications Act, *Second Order on Reconsideration and Seventh Report and Order*, PR Docket No. 89-553, GN Docket No. 93-252, 11 FCC Rcd 2639, 2658-59 (1995) (*1995 900 MHz SMR Order*). See also Amendment of Parts 1, 22, 24, 27, 74, 80, 90, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services; Imposition of a Freeze, *Notice of Proposed Rulemaking and Order*, WT Docket No. 10-112, FCC 10-86, 25 FCC (continued....)

impose an immediate freeze on the acceptance of certain Cellular applications.<sup>167</sup> We recognize that the imposition of a freeze imposes costs for a limited period on some licensees, *e.g.*, those that have already undertaken preparation of applications to change their system parameters or establish new systems. Rather than imposing a freeze on all modification and new-system applications, we are tailoring the freeze in this proceeding to: (1) provide for the continued expansion of service to consumers during the pendency of this proceeding; and (2) help the Commission identify Unserved Area and inform potential bidders of encumbrances well in advance of the auction. A tailored freeze will facilitate much needed network changes. We conclude that the benefits described above outweigh the limited potential costs of this tailored freeze. In addition, consistent with our actions in numerous prior proceedings,<sup>168</sup> by this *Order* we adopt other interim procedures for certain Cellular applications, as explained below.<sup>169</sup>

68. We recognize that licensees in the Cellular Service, with approximately three decades of deployment, have demonstrated levels of service in excess of other commercial wireless services. We seek to allow licensees to continue limited expansion of existing systems necessary to respond to customer needs by addressing technical changes at the periphery of their current CGSAs without facing strike applications, *i.e.*, applications filed primarily to block such service during a transition to geographic area licensing.<sup>170</sup> Moreover, accepting and processing all applications in the normal course under our current rules would arguably be inconsistent with our goal of changing to a less burdensome licensing system.<sup>171</sup>

69. Accordingly, as of the adoption date of this *Order* (Adoption Date) and until further notice, we hereby suspend acceptance of certain Cellular applications claiming Unserved Area in “Covered” CMA Blocks. Covered Blocks include: (i) those we preliminarily determine to be Substantially Licensed under either benchmark of our proposed test (listed in Appendix C); and (ii) those we

(Continued from previous page)

\_\_\_\_\_ Rcd 6996, 7033-34 (2010) (*2010 WRS NPRM*); Amendment of Part 90 of the Commission’s Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *Second Report and Order*, PR Docket No. 93-144, GN Docket No. 93-252, PP Docket No. 93-253, RMs-8117, -8029, -8030, 12 FCC Rcd 19079, 19105 (1997) (*1997 800 MHz Second R&O*); Licensing of General Category Frequencies in the 806-809.750/851-854.750 MHz Bands, *Order*, 10 FCC Rcd 13190 (WTB 1995) (*1995 800 MHz Freeze Order*).

<sup>167</sup> Our decision to impose a freeze and other interim procedures is procedural and therefore not subject to the notice and comment or effective date requirements of the Administrative Procedure Act. *See* 5 U.S.C. § 553(b)(A)-(B), (d). *See also* *Bachow Communications, Inc. v. FCC*, 237 F.3d 683 (D.C. Cir. 2001) (*Bachow*) (affirming imposition of a freeze and interim procedures without notice and comment for applications in the 39 GHz band during transition of licensing regime); *Neighborhood TV Co., Inc. v. FCC*, 742 F.2d 629, 638 (D.C. Cir. 1984) (*Neighborhood TV*) (deeming interim processing rules, including a freeze on applications, as procedural); *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963) (*Kessler*) (same).

<sup>168</sup> *See supra* note 166.

<sup>169</sup> We note that CTIA and several other commenters address a possible freeze and/or interim processing procedures for Cellular applications during the pendency of this proceeding. *See* CTIA Petition at 15; CTIA Revised Plan at 5-6; Commnet Comments at 12-14; Commnet Reply Comments at 2, 8; GCI Comments at 2-3, 10-13; GCI Reply Comments at 6; MetroPCS Comments at 10; NTCA Comments at 2, 4; RTG Comments at 2, 8; Verizon Wireless Comments at 5-6.

<sup>170</sup> *See* 47 C.F.R. § 1.946(c).

<sup>171</sup> *See, e.g.*, Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, ET Docket No. 00-258, RM-9498, RM-10024, and ET Docket No. 95-18, 19 FCC Rcd 14651, 14992 (2004) (errata citations omitted) (explaining that a freeze was imposed “to ensure that resolution of the spectrum allocation issues raised in [the proceeding] would not be compromised”).

preliminarily determine to be more than 90% but less than 95% licensed (listed in Appendix F).<sup>172</sup> In Covered Blocks, we prohibit the filing of applications for: (a) new-system Cellular licenses; and (b) major modifications to expand existing systems if claiming Unserved Area that is not contiguous to the existing CGSA. The prohibition applies even if a portion of the area to be claimed as CGSA lies in a non-Covered Block.<sup>173</sup> Any applications prohibited under this *Order* that are received on or after the Adoption Date are to be dismissed by the Bureau as unacceptable for filing.

70. We will permit major modification applications that propose CGSA expansion in, or into, Covered Blocks only if claiming Unserved Area that is contiguous to the existing CGSA.<sup>174</sup> Also, as of the Adoption Date and until further notice, we will use a “same-day filing group” for purposes of determining mutual exclusivity of permissible Cellular applications that entail Unserved Area in Covered Blocks. We will dismiss any mutually exclusive applications claiming Unserved Area in Covered Blocks that are received on or after the Adoption Date rather than conduct closed auctions to resolve such applications. We will permit major amendments to permissible major modification applications only so long as the proposed CGSA expansion in the amendment is claiming Unserved Area that is contiguous<sup>175</sup> to the existing licensed CGSA. Also, for such major amendments filed on or after the Adoption Date and until further notice, we will use a “same-day filing group” for purposes of determining mutual exclusivity, and we will dismiss any such mutually exclusive major amendments rather than conduct closed auctions to resolve them.

71. These interim filing procedures do not affect applications claiming Unserved Area solely in non-Covered CMA Blocks, which we will continue to accept and process under current rules and procedures, nor do they affect any applications that do not propose a new Cellular system or a CGSA expansion (*e.g.*, renewals, transfers, assignments, modifications that do not extend a CGSA boundary, administrative updates, and required notifications), no matter the Block.<sup>176</sup> We advise all parties, however, that although minor modification applications (regardless of market) are not affected by the freeze we impose under this *Order*, we know from experience that staff might find on review that a purported minor modification application submitted on or after the Adoption Date is in fact a major modification application. If such an application is for Unserved Area (in whole or in part) in a Covered CMA Block, the application will be subject to the same procedures and restrictions described above (including dismissal if an impermissible filing under this *Order*).

72. As the Commission has previously stated, a freeze is “a necessary adjunct to any efficient and effective rule making” until the current rules can be reexamined “and in which amendments to the rules might be made.”<sup>177</sup> In sum, we find that the public interest is best served by imposition of the

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<sup>172</sup> We have not listed in this Appendix the Blocks already listed in Appendix C (*i.e.*, those that preliminarily meet either benchmark of our proposed Substantially Licensed test), which are also Covered Blocks for purposes of this *Order*.

<sup>173</sup> Thus, for example, if a proposed new-system or major modification application proposes to claim (as CGSA) Unserved Area that straddles a CMA boundary, where the CMA Block on one side of the boundary is Covered while the Block on the other side of the boundary is non-Covered, the entire application will be treated as if solely for Unserved Area in a Covered Block.

<sup>174</sup> If an application proposes to claim (as CGSA) contiguous Unserved Area that is partially in a Covered Block and partially in a non-Covered Block, the application will be treated as if the entire claimed area is in a Covered Block.

<sup>175</sup> *See supra* note 174.

<sup>176</sup> Applications for renewal must comply with any applicable provisions of the Notice released by the Commission in the WRS proceeding in May 2010. *See generally* 2010 WRS NPRM, *supra* note 166. *See also* 47 C.F.R. § 1.939.

<sup>177</sup> *Kessler*, 326 F.2d at 680-81.

freeze and related interim procedures we adopt today. In the following Section B, we discuss how we will process currently pending new-system and CGSA-expansion applications in Covered CMA Blocks.

#### **B. Currently Pending Non-Mutually Exclusive Applications in Covered CMA Blocks**

73. *New-System and Major Modification Applications.* Currently pending applications (*i.e.*, filed prior to the Adoption Date) that propose either a new Cellular system or a modification that would expand an existing system's CGSA boundary in, or into, Covered CMA Blocks fall into one of two categories: (1) those accepted for filing and placed on public notice at least 30 days before the Adoption Date; and (2) those for which the 30-day public comment period has not yet expired as of the Adoption Date. We will treat non-mutually exclusive applications in the first category (including pending applications that would be impermissible under this *Order* if filed on or after the Adoption Date) under existing rules and will process them in the normal course as expeditiously as possible, subject to certain interim procedures regarding major amendments. Specifically, for pending modification applications proposing expansion of an existing CGSA, we will permit major amendments on or after the Adoption Date subject to the same interim procedures described above in Section IV.A.<sup>178</sup> For pending new-system applications, we will permit major amendments on or after the Adoption Date only so long as the proposed new-system CGSA in the amendment is claiming Unserved Area that is contiguous to the CGSA proposed in the application that was pending as of the Adoption Date.<sup>179</sup> For such amendments, we will use a "same-day filing group" for purposes of determining mutual exclusivity, and we will dismiss any such mutually exclusive major amendments claiming Unserved Area in Covered Blocks that are received on or after the Adoption Date rather than conduct closed auctions to resolve them. On balance, rather than holding the applications in abeyance until conclusion of this proceeding, we conclude that processing pending applications in the first category under existing rules, subject to the interim procedures described herein, will not sacrifice the goals we seek to accomplish in this proceeding.<sup>180</sup>

74. Pending new-system and major modification applications in the second category (*i.e.*, filed prior to the Adoption Date but for which the 30-day comment period has not expired) claiming any Unserved Area in Covered CMA Blocks will be deemed mutually exclusive only if a competing application was filed prior to the Adoption Date of this Order. Applications in the second category that are not mutually exclusive will be processed under our current rules, except that we will only permit the filing of major amendments subject to the same interim procedures described above regarding major amendments to applications in the first category.

75. *Minor Modifications.* As explained above, applications submitted as minor modifications of an existing CGSA are sometimes found by staff to be major modification applications. During the pendency of this proceeding, a minor modification application submitted prior to the Adoption Date that is determined to be proposing a major modification claiming (as CGSA) Unserved Area in a Covered Block will be treated the same as a pending major modification application in accordance with the interim procedures described above.

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<sup>178</sup> See *supra* ¶ 70.

<sup>179</sup> If an application proposes to claim (as CGSA) contiguous Unserved Area that is partially in a Covered Block and partially in a non-Covered Block, the application will be treated as if the entire claimed area is in a Covered Block.

<sup>180</sup> See, e.g., 2003 *ITFS NPRM*, 18 FCC Rcd at 6813-14; 2000 *Maritime Services FNPRM*, 15 FCC Rcd at 22622; 1996 *Paging Services NPRM*, 11 FCC Rcd at 3137. See also *Kessler*, 326 F.2d at 684 (noting FCC's conclusion that the total number of potential grants "was not sufficiently great to frustrate the ends [it] sought to accomplish through [the] rule making").

## V. PROCEDURAL MATTERS

### A. *Ex Parte* Rules – Permit-But-Disclose

76. The proceeding this *NPRM* initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>181</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b).<sup>182</sup> In proceedings governed by section 1.49(f)<sup>183</sup> or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

### B. Comment Period and Procedures

77. Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>184</sup> interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All comments and reply comments should refer to WT Docket No. 12-40. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).<sup>185</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries

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<sup>181</sup> 47 C.F.R. §§ 1.1200 *et seq.*

<sup>182</sup> 47 C.F.R. § 1.1206(b).

<sup>183</sup> 47 C.F.R. § 1.49(f).

<sup>184</sup> 47 C.F.R. §§ 1.415, 1.419.

<sup>185</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

78. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

### C. Initial Regulatory Flexibility Analysis

79. As required by the Regulatory Flexibility Act of 1980 (RFA),<sup>186</sup> the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the *NPRM*. The analysis is found in Appendix G. We request written public comment on the analysis. Comments must be filed by the same dates as listed on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

### D. Initial Paperwork Reduction Analysis

80. This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

### E. Further Information

81. For further information, contact Nina Shafran of the Wireless Telecommunications Bureau, Mobility Division, at 202-418-2781, or by e-mail to [Nina.Shafran@fcc.gov](mailto:Nina.Shafran@fcc.gov).

## VI. ORDERING CLAUSES

82. Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 301, 302, 303, 308, 309(j), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 301, 302, 303, 308, 309(j), and 332, that this Notice of Proposed Rulemaking and Order are hereby ADOPTED.

83. IT IS FURTHER ORDERED, pursuant to sections 4(i), 301, 303, 308, and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 301, 303, 308, and 309, that effective as of the date of the adoption of this Notice of Proposed Rule Making and Order, THE FEDERAL COMMUNICATIONS COMMISSION WILL NOT ACCEPT FOR FILING ANY APPLICATIONS for licenses in the Cellular Band that are inconsistent with the terms of the application freeze discussed herein. This suspension is effective until further notice and applies to any such applications received on or after the date of adoption of this Notice of Proposed Rulemaking and Order.

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<sup>186</sup> 5 U.S.C. § 603.

84. IT IS FURTHER ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes described in this Notice of Proposed Rulemaking and that comment is sought on these proposals.

85. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking and Order, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A**  
**List of Commenters**

**I. Comments**

AT&T Inc. (AT&T)  
Broadpoint, Inc. (Broadpoint)  
Commnet Wireless, LLC (Commnet)  
GCI Communication Corp. (GCI)  
MetroPCS Communications, Inc. (MetroPCS)  
National Telecommunications Cooperative Association (NTCA)  
Rural Independent Competitive Alliance (RICA)  
The Rural Telecommunications Group, Inc. (RTG)  
United States Cellular Corporation (USCC)  
Verizon Wireless

**II. Reply Comments**

AT&T  
CTIA – The Wireless Association (CTIA)  
Commnet  
GCI  
USCC  
Verizon Wireless

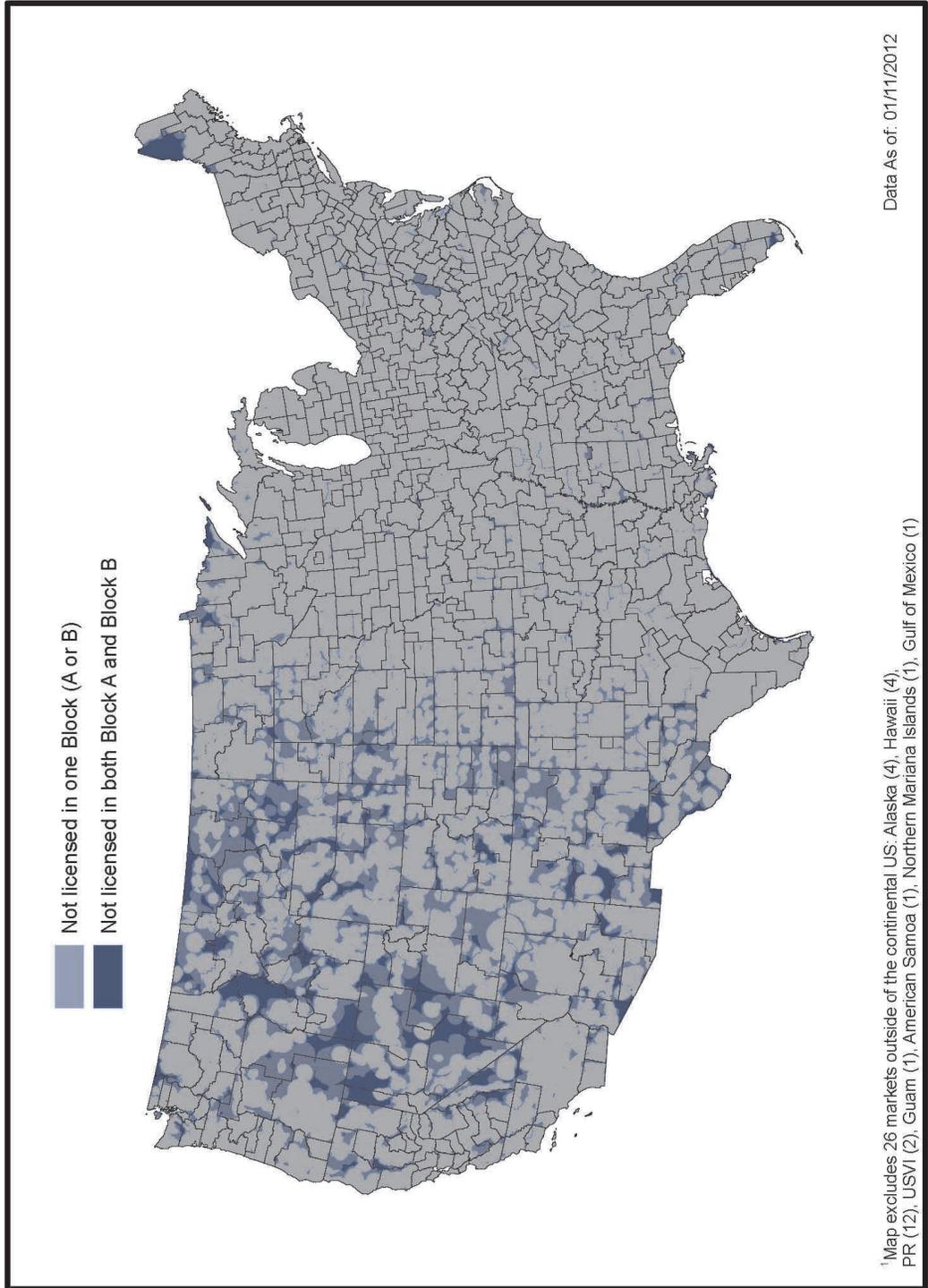
**III. *Ex Parte* Filings**

CTIA (Feb. 13, 2009)  
CTIA (Aug. 5, 2009)  
CTIA (Sept. 21, 2010, as corrected on Sept. 22, 2010) (Revised Plan)  
CTIA (May 20, 2011)  
CTIA (Jan. 24, 2012) (Noel)  
CTIA (Feb. 2, 2012) (Levine)  
CTIA (Feb. 2, 2012) (Peraertz)  
CTIA (Feb. 8, 2012) (Giancarlo)  
GCI (Apr. 15, 2010)  
GCI (Oct. 7, 2010)  
GCI (May 19, 2011)  
NTCA (May 23, 2011) (on behalf of NTCA and GCI)  
RTG (Nov. 8, 2010) (RTG Letter Response)

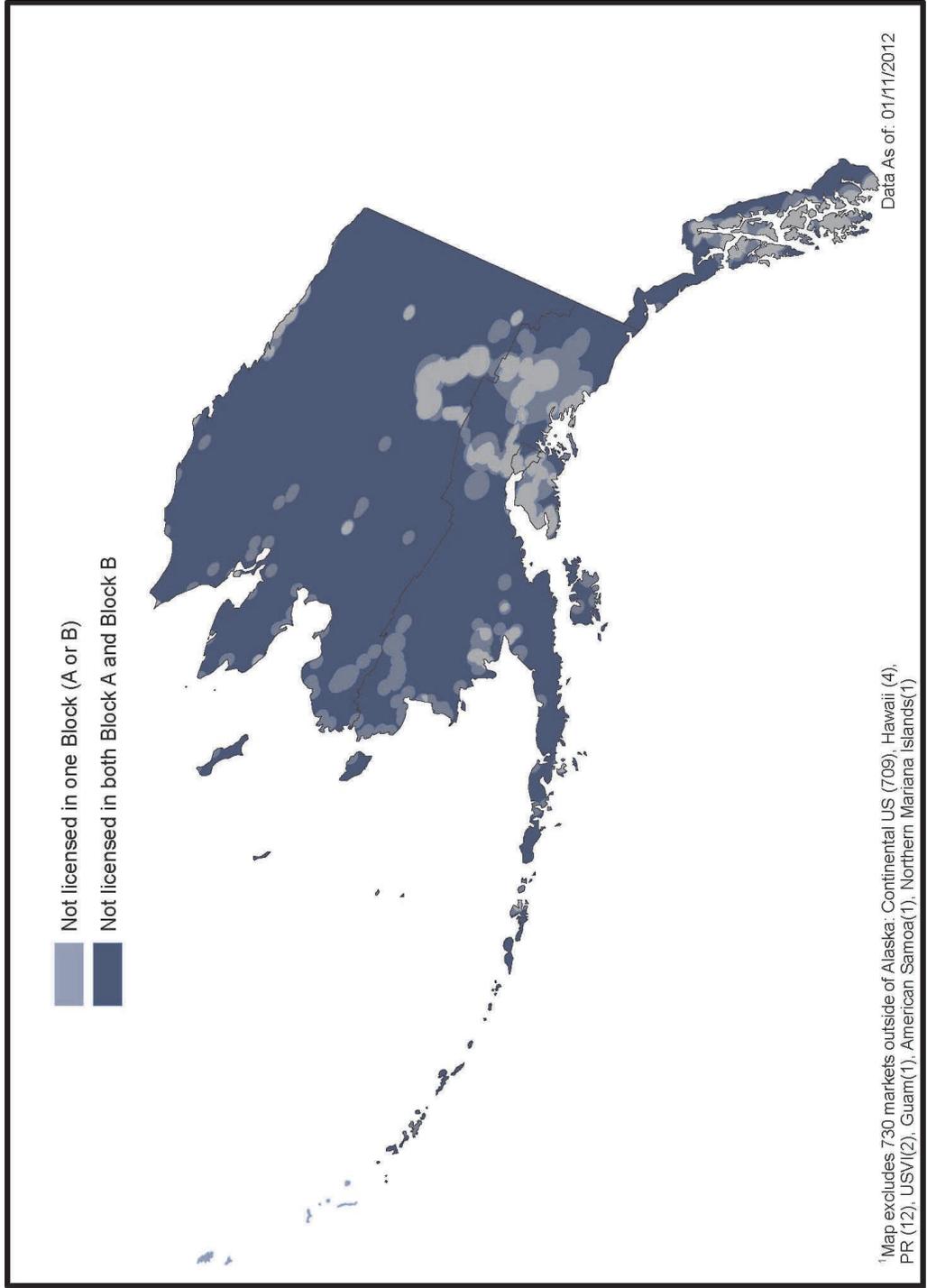
APPENDIX B

Maps Showing Unserved Area in (1) Continental U.S., and (2) Alaska  
(Data as of 1/11/2012)

800 MHz Cellular Areas Not Yet Licensed - A and B Blocks<sup>1</sup>



# 800 MHz Cellular Areas Not Yet Licensed - A and B Blocks<sup>1</sup>



## APPENDIX C

**List of CMA Blocks That Meet Proposed “Substantially Licensed” Test  
(Block A listed first, in 2 groupings, followed by Block B, in 2 groupings)**

*(meeting proposed test as of 01/11/2012)*

***Block A >= 95%***

	<b>CMA</b>	<b>DESC</b>	<b>A-Block Percent Licensed Area</b>
1	CMA001A	New York, NY-NJ/Nassau-Suffolk, NY/Newark, Jersey	99.94%
2	CMA002A	Los Angeles-Long Beach/Anaheim-Santa Ana-Garden Gr	98.70%
3	CMA003A	Chicago, IL	99.31%
4	CMA004A	Philadelphia, PA	99.92%
5	CMA005A	Detroit/Ann Arbor, MI	99.96%
6	CMA006A	Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	100.00%
7	CMA007A	San Francisco-Oakland, CA	100.00%
8	CMA008A	Washington, DC-MD-VA	100.00%
9	CMA009A	Dallas-Forth Worth, TX	99.86%
10	CMA010A	Houston, TX	100.00%
11	CMA011A	St. Louis, MO-IL	99.82%
12	CMA012A	Miami-Fort Lauderdale-Hollywood, FL	97.28%
13	CMA013A	Pittsburgh, PA	99.99%
14	CMA014A	Baltimore, MD	99.94%
15	CMA015A	Minneapolis-St. Paul, MN-WI	96.00%
16	CMA016A	Cleveland, OH	99.93%
17	CMA017A	Atlanta, GA	99.98%
18	CMA018A	San Diego, CA	99.91%
19	CMA019A	Denver-Boulder, CO	95.37%
20	CMA020A	Seattle-Everett, WA	99.96%
21	CMA021A	Milwaukee, WI	100.00%
22	CMA022A	Tampa-St. Petersburg, FL	99.97%
23	CMA023A	Cincinnati, OH-KY-IN	98.69%
24	CMA024A	Kansas City, MO-KS	99.78%
25	CMA025A	Buffalo, NY	99.84%
26	CMA027A	San Jose, CA	100.00%
27	CMA028A	Indianapolis, IN	100.00%
28	CMA030A	Portland, OR-WA	99.99%
29	CMA031A	Columbus, OH	99.97%
30	CMA032A	Hartford-New Britain-Bristol, CT	99.92%
31	CMA033A	San Antonio, TX	99.96%
32	CMA034A	Rochester, NY	100.00%
33	CMA035A	Sacramento, CA	100.00%
34	CMA036A	Memphis, TN-AR-MS	97.03%
35	CMA037A	Louisville, KY-IN	100.00%
36	CMA038A	Providence-Warwick-Pawtucket, RI	99.96%

37	CMA040A	Dayton, OH	99.95%
38	CMA041A	Birmingham, AL	99.89%
39	CMA042A	Bridgeport-Stamford-Norwalk-Danbury, CT	100.00%
40	CMA043A	Norfolk-Virginia Beach-Portsmouth, VA/NC	98.36%
41	CMA044A	Albany-Schenectady-Troy, NY	100.00%
42	CMA045A	Oklahoma City, OK	97.31%
43	CMA046A	Nashville-Davidson, TN	99.98%
44	CMA047A	Greensboro-Winston-Salem-High Point, NC	100.00%
45	CMA048A	Toledo, OH-MI	98.71%
46	CMA049A	New Haven-West Haven-Waterbury-Meriden, CT	100.00%
47	CMA050A	Honolulu, HI	97.77%
48	CMA051A	Jacksonville, FL	98.33%
49	CMA052A	Akron, OH	99.99%
50	CMA053A	Syracuse, NY	99.83%
51	CMA054A	Gary-Hammond-East Chicago, IN	100.00%
52	CMA055A	Worcester-Fitchburg-Leominster, MA	99.98%
53	CMA056A	Northeast Pennsylvania, PA	100.00%
54	CMA057A	Tulsa, OK	99.29%
55	CMA058A	Allentown-Bethlehem-Easton, PA-NJ	100.00%
56	CMA059A	Richmond, VA	99.84%
57	CMA060A	Orlando, FL	100.00%
58	CMA061A	Charlotte-Gastonia, NC	99.98%
59	CMA062A	New Brunswick-Perth Amboy-Sayreville, NJ	100.00%
60	CMA063A	Springfield-Chicopee-Holyoke, MA	99.66%
61	CMA064A	Grand Rapids, MI	99.98%
62	CMA065A	Omaha, NE-IA	100.00%
63	CMA066A	Youngstown-Warren, OH	100.00%
64	CMA067A	Greenville-Spartanburg, SC	100.00%
65	CMA068A	Flint, MI	100.00%
66	CMA069A	Wilmington, DE-NJ-MD	99.99%
67	CMA070A	Long Branch-Asbury Park, NJ	99.81%
68	CMA071A	Raleigh-Durham, NC	100.00%
69	CMA072A	West Palm Beach-Boca Raton, FL	99.79%
70	CMA073A	Oxnard-Simi Valley-Ventura, CA	98.61%
71	CMA075A	Austin, TX	99.92%
72	CMA076A	New Bedford-Fall River, MA	99.92%
73	CMA077A	Tuscon, AZ	95.97%
74	CMA078A	Lansing-East Lansing, MI	100.00%
75	CMA079A	Knoxville, TN	99.89%
76	CMA080A	Baton Rouge, LA	99.91%
77	CMA081A	El Paso, TX	99.77%
78	CMA082A	Tacoma, WA	99.99%
79	CMA083A	Mobile, AL	97.68%
80	CMA084A	Harrisburg, PA	100.00%
81	CMA085A	Johnson City-Kingsport-Bristol, TN-VA	99.97%
82	CMA086A	Albuquerque, NM	99.28%

83	CMA087A	Canton, OH	99.86%
84	CMA088A	Chattanooga, TN-GA	99.95%
85	CMA089A	Wichita, KS	97.74%
86	CMA090A	Charleston-North Charleston, SC	99.72%
87	CMA091A	San Juan-Caguas, PR	100.00%
88	CMA092A	Little Rock-North Little Rock, AR	99.91%
89	CMA094A	Saginaw-Bay City-Midland, MI	99.91%
90	CMA095A	Columbia, SC	100.00%
91	CMA096A	Fort Wayne, IN	99.52%
92	CMA097A	Bakersfield, CA	99.49%
93	CMA098A	Davenport-Rock Island-Moline, IA/IL	99.97%
94	CMA099A	York, PA	100.00%
95	CMA100A	Shreveport, Louisiana	99.87%
96	CMA101A	Beaumont-Port Arthur, TX	96.78%
97	CMA102A	Des Moines, IA	99.87%
98	CMA103A	Peoria, IL	99.90%
99	CMA105A	Lancaster, PA	100.00%
100	CMA106A	Jackson, MS	100.02%
101	CMA107A	Stockton, CA	99.90%
102	CMA108A	Augusta, GA/SC	99.95%
103	CMA109A	Spokane, WA	99.90%
104	CMA110A	Huntington-Ashland, WV/KY/OH	98.45%
105	CMA111A	Vallejo-Fairfield-Napa, CA	100.00%
106	CMA112A	Corpus Christi, TX	100.01%
107	CMA113A	Madison, WI	99.92%
108	CMA114A	Lakeland-Winter Haven, FL	99.91%
109	CMA115A	Utica-Rome, NY	99.99%
110	CMA116A	Lexington-Fayette, KY	99.98%
111	CMA118A	Reading, PA	99.99%
112	CMA119A	Evansville, IN/KY	99.84%
113	CMA120A	Huntsville, AL	99.93%
114	CMA121A	Trenton, NJ	99.87%
115	CMA122A	Binghamton, NY	100.00%
116	CMA123A	Santa Rosa-Petaluma, CA	99.69%
117	CMA124A	Santa Barbara-Santa Maria-Lompoc, CA	98.34%
118	CMA125A	Appleton-Oskosh-Neenah, WI	99.97%
119	CMA127A	Pensacola, FL	99.94%
120	CMA128A	McAllen-Edinburg-Mission, TX	99.64%
121	CMA129A	South Bend-Mishawaka, IN	100.00%
122	CMA130A	Erie, PA	100.00%
123	CMA131A	Rockford, IL	99.91%
124	CMA132A	Kalamazoo, MI	99.99%
125	CMA133A	Manchester-Nashua, NH	99.87%
126	CMA134A	Atlantic City, NJ	100.00%
127	CMA136A	Lorain-Elyria, OH	97.74%
128	CMA137A	Melbourne-Titusville-Palm Bay, FL	99.86%

129	CMA138A	Macon-Warner Robins, GA	100.00%
130	CMA139A	Montgomery, AL	99.87%
131	CMA140A	Charleston, WV	99.08%
132	CMA141A	Duluth, MN-WI	97.30%
133	CMA142A	Modesto, CA	99.79%
134	CMA143A	Johnstown, PA	100.00%
135	CMA144A	Orange County, NY	100.00%
136	CMA145A	Hamilton-Middletown, OH	99.96%
137	CMA146A	Daytona Beach, FL	99.85%
138	CMA147A	Ponce, PR	100.00%
139	CMA148A	Salem, OR	99.74%
140	CMA149A	Fayetteville, NC	99.74%
141	CMA151A	Poughkeepsie, NY	100.00%
142	CMA152A	Portland, ME	99.92%
143	CMA153A	Columbus, GA-AL	99.86%
144	CMA154A	New London-Norwich, CT	99.54%
145	CMA155A	Savannah, GA	99.72%
146	CMA156A	Portsmouth-Dover-Rochester, NH-ME	99.91%
147	CMA157A	Roanoke, VA	95.30%
148	CMA158A	Lima, OH	99.94%
149	CMA159A	Provo-Orem, UT	98.78%
150	CMA160A	Killeen-Temple, TX	100.02%
151	CMA161A	Lubbock, TX Counties - Lubbock	100.00%
152	CMA162A	Brownsville-Harlingen, TX	97.98%
153	CMA163A	Springfield, MO	99.61%
154	CMA164A	Fort Myers, FL Counties - Lee	99.92%
155	CMA165A	Fort Smith, AK-OK	99.74%
156	CMA166A	Hickory, NC	97.65%
157	CMA167A	Sarasota, FL	99.90%
158	CMA168A	Tallahassee, FL	99.97%
159	CMA170A	Galveston-Texas City, TX	99.51%
160	CMA172A	Lincoln, NE	99.62%
161	CMA173A	Biloxi-Gulfport, MS	99.53%
162	CMA174A	Lafayette, LA	99.55%
163	CMA175A	Santa Cruz, CA	100.00%
164	CMA176A	Springfield, IL	99.94%
165	CMA177A	Battle Creek, MI	99.39%
166	CMA178A	Wheeling, WV-OH	99.93%
167	CMA179A	Topeka, KS	99.99%
168	CMA180A	Springfield, OH	99.98%
169	CMA181A	Muskegon, MI	99.95%
170	CMA182A	Fayetteville-Springdale, AK	99.99%
171	CMA183A	Asheville, NC	99.96%
172	CMA185A	Terre Haute, IN	100.00%
173	CMA186A	Green Bay, WI	99.48%
174	CMA188A	Amarillo, TX	98.18%

175	CMA189A	Racine, WI	99.99%
176	CMA190A	Boise City, ID	100.00%
177	CMA192A	Gainesville, FL	99.81%
178	CMA193A	Benton Harbor, MI	99.99%
179	CMA194A	Waco, TX	99.96%
180	CMA195A	Cedar Rapids, IA	100.00%
181	CMA196A	Champaign-Urbana-Rantoul, IL	99.97%
182	CMA197A	Lake Charles, LA	99.96%
183	CMA198A	St. Cloud, MN	99.97%
184	CMA199A	Steubenville-Weirton, OH-WV	99.94%
185	CMA200A	Parkersburg-Marietta, OH-WV	99.89%
186	CMA201A	Waterloo-Cedar Falls, IA	99.90%
187	CMA202A	Arecibo, PR	99.75%
188	CMA203A	Lynchburg, VA	98.90%
189	CMA204A	Aguadilla, PR	99.91%
190	CMA205A	Alexandria, LA	99.95%
191	CMA206A	Longview-Marshall, TX	99.88%
192	CMA207A	Jackson, MI	99.94%
193	CMA208A	Fort Pierce, FL	99.79%
194	CMA209A	Clarksville-Hopkinsville, TN/KY	99.95%
195	CMA211A	Bradenton, FL	99.99%
196	CMA212A	Bremerton, WA	99.80%
197	CMA213A	Pittsfield, MA	99.89%
198	CMA214A	Richland-Kennewick-Pasco, WA	95.91%
199	CMA215A	Chico	99.95%
200	CMA216A	Janesville-Beloit, WI	100.01%
201	CMA217A	Anderson, IN	99.90%
202	CMA218A	Wilmington, NC	99.30%
203	CMA219A	Monroe, LA	99.94%
204	CMA220A	Abilene, TX	99.31%
205	CMA221A	Fargo-Moorehead, ND-MN	98.69%
206	CMA222A	Tuscaloosa, AL	97.53%
207	CMA223A	Elkhart-Goshen, IN	99.97%
208	CMA225A	Altoona, PA	99.88%
209	CMA226A	Florence, AL	99.65%
210	CMA227A	Anderson, SC	99.99%
211	CMA228A	Vineland-Millville-Bridgeton, NJ	99.70%
212	CMA229A	Medford, OR	97.02%
213	CMA230A	Decatur, IL	99.95%
214	CMA231A	Mansfield, OH	99.83%
215	CMA232A	Eau Claire, WI	99.94%
216	CMA233A	Wichita Falls, TX	98.31%
217	CMA234A	Athens, GA	100.00%
218	CMA235A	Petersburg-Colonial Heights-Hopewell, VA	98.27%
219	CMA236A	Muncie, IN	99.99%
220	CMA237A	Tyler, TX	99.89%

221	CMA238A	Sharon, PA	99.99%
222	CMA239A	Joplin, MO	100.01%
223	CMA240A	Texarkana, TX - Texarkana, AR	100.00%
224	CMA242A	Olympia, WA	99.39%
225	CMA243A	Greeley, CO	95.49%
226	CMA244A	Kenosha, WI	99.77%
227	CMA246A	Dothan, AL	99.79%
228	CMA247A	Lafayette, IN	99.99%
229	CMA248A	Burlington, VT	99.99%
230	CMA249A	Anniston, AL	100.00%
231	CMA250A	Bloomington-Normal, IL	99.99%
232	CMA251A	Williamsport, PA	99.99%
233	CMA252A	Pascagoula, MS	99.46%
234	CMA253A	Sioux City, IA-NE	99.65%
235	CMA255A	Odessa, TX	99.84%
236	CMA256A	Charlottesville, VA	99.48%
237	CMA257A	Hagerstown, MD	99.66%
238	CMA258A	Jacksonville, NC	99.56%
239	CMA259A	State College, PA	100.00%
240	CMA260A	Lawton, OK	99.56%
241	CMA261A	Albany, GA	100.00%
242	CMA262A	Danville, VA	98.84%
243	CMA263A	Wausau, WI	99.96%
244	CMA264A	Florence, SC	100.00%
245	CMA265A	Fort Walton Beach, FL	99.66%
246	CMA266A	Glens Falls, NY	100.00%
247	CMA267A	Sioux Falls, SD	99.78%
248	CMA269A	Cumberland, MD-WV	99.79%
249	CMA271A	Kokomo, IN	99.94%
250	CMA272A	Gadsden, AL	99.96%
251	CMA273A	Kankakee, IL	100.04%
252	CMA274A	Yuba City, CA	100.00%
253	CMA275A	St. Joseph, MO	99.13%
254	CMA276A	Grand Forks, ND-MN	98.10%
255	CMA277A	Sheboygan, WI	99.86%
256	CMA278A	Columbia, MO	99.86%
257	CMA279A	Lewiston-Auburn, ME	99.88%
258	CMA280A	Burlington, NC	99.99%
259	CMA281A	Laredo, TX	99.77%
260	CMA282A	Bloomington, IN	99.98%
261	CMA283A	Panama City, FL	99.73%
262	CMA284A	Elmira, NY	100.00%
263	CMA286A	Dubuque, IA	99.98%
264	CMA287A	Bryan-College Station, TX	99.68%
265	CMA288A	Rochester, MN	100.01%
266	CMA290A	La Crosse, WI	99.91%

267	CMA291A	Pine Bluff, AK	99.82%
268	CMA292A	Sherman-Denison, TX	97.25%
269	CMA293A	Owensboro, KY	99.79%
270	CMA295A	Midland, TX	99.60%
271	CMA296A	Iowa City, IA	99.77%
272	CMA297A	Great Falls, MT	97.91%
273	CMA298A	Bismarck, ND	98.65%
274	CMA300A	Victoria, TX	100.00%
275	CMA301A	Lawrence, KS	99.90%
276	CMA302A	Enid, OK	98.30%
277	CMA303A	Aurora-Elgin, IL	99.80%
278	CMA304A	Joliet, IL	100.00%
279	CMA305A	Alton-Granite City, IL	100.00%
280	CMA307A	Alabama 1 - Franklin	99.99%
281	CMA308A	Alabama 2 - Jackson	100.00%
282	CMA309A	Alabama 3 - Lamar	99.24%
283	CMA310A	Alabama 4 - Bibb	99.78%
284	CMA311A	Alabama 5 - Cleburne	99.71%
285	CMA312A	Alabama 6 - Washington	95.42%
286	CMA313A	Alabama 7 - Butler	99.84%
287	CMA314A	Alabama 8 - Lee	99.87%
288	CMA320A	Arizona 3 - Navajo	97.49%
289	CMA322A	Arizona 5 - Gila	95.91%
290	CMA324A	Arkansas 1 - Madison	99.90%
291	CMA325A	Arkansas 2 - Marion	99.93%
292	CMA326A	Arkansas 3 - Sharp	99.93%
293	CMA327A	Arkansas 4 - Clay	99.56%
294	CMA328A	Arkansas 5 - Cross	97.11%
295	CMA329A	Arkansas 6 - Cleburne	99.91%
296	CMA330A	Arkansas 7 - Pope	100.00%
297	CMA331A	Arkansas 8 - Franklin	99.99%
298	CMA332A	Arkansas 9 - Polk	100.00%
299	CMA333A	Arkansas 10 - Garland	100.00%
300	CMA334A	Arkansas 11 - Hempstead	96.93%
301	CMA335A	Arkansas 12 - Ouachita	98.08%
302	CMA340A	California 5 - San Luis Obispo	97.54%
303	CMA344A	California 9 - Mendocino	98.40%
304	CMA345A	California 10 - Sierra	98.87%
305	CMA346A	California 11 - El Dorado	99.99%
306	CMA347A	California 12 - Kings	99.42%
307	CMA349A	Colorado 2 - Logan	98.96%
308	CMA351A	Colorado 4 - Park	96.43%
309	CMA357A	Connecticut 1 - Litchfield	100.00%
310	CMA358A	Connecticut 2 - Windham	100.00%
311	CMA359A	Delaware 1 - Kent	99.99%
312	CMA360A	Florida 1 - Collier	99.94%

313	CMA361A	Florida 2 - Glades	97.68%
314	CMA362A	Florida 3 - Hardee	99.95%
315	CMA363A	Florida 4 - Citrus	99.97%
316	CMA364A	Florida 5 - Putnam	97.35%
317	CMA365A	Florida 6 - Dixie	99.75%
318	CMA366A	Florida 7 - Hamilton	99.96%
319	CMA367A	Florida 8 - Jefferson	100.00%
320	CMA368A	Florida 9 - Calhoun	95.34%
321	CMA369A	Florida 10 - Walton	99.64%
322	CMA371A	Georgia 1 - Whitfield	98.68%
323	CMA372A	Georgia 2 - Dawson	99.99%
324	CMA373A	Georgia 3 - Chattooga	100.00%
325	CMA374A	Georgia 4 - Jasper	96.77%
326	CMA375A	Georgia 5 - Haralson	99.93%
327	CMA376A	Georgia 6 - Spalding	99.98%
328	CMA377A	Georgia 7 - Hancock	99.98%
329	CMA378A	Georgia 8 - Warren	99.54%
330	CMA379A	Georgia 9 - Marion	100.00%
331	CMA380A	Georgia 10 - Bleckley	99.92%
332	CMA381A	Georgia 11 - Toombs	99.80%
333	CMA382A	Georgia 12 - Liberty	99.88%
334	CMA383A	Georgia 13 - Early	99.78%
335	CMA384A	Georgia 14 - Worth	100.00%
336	CMA386A	Hawaii 2 - Maui	95.10%
337	CMA394A	Illinois 1 - Jo Daviess	99.97%
338	CMA395A	Illinois 2 - Bureau	99.63%
339	CMA396A	Illinois 3 - Mercer	99.89%
340	CMA397A	Illinois 4 - Adams	99.99%
341	CMA398A	Illinois 5 - Mason	99.97%
342	CMA399A	Illinois 6 - Montgomery	100.00%
343	CMA400A	Illinois 7 - Vermilion	99.90%
344	CMA401A	Illinois 8 - Washington	99.80%
345	CMA402A	Illinois 9 - Clay	99.56%
346	CMA403A	Indiana 1 - Newton	99.94%
347	CMA404A	Indiana 2 - Kosciusko	99.94%
348	CMA405A	Indiana 3 - Huntington	99.95%
349	CMA406A	Indiana 4 - Miami	100.00%
350	CMA407A	Indiana 5 - Warren	99.96%
351	CMA408A	Indiana 6 - Randolph	99.95%
352	CMA409A	Indiana 7 - Owen	99.92%
353	CMA410A	Indiana 8 - Brown	99.98%
354	CMA411A	Indiana 9 - Decatur	99.98%
355	CMA412A	Iowa 1 - Mills	99.96%
356	CMA413A	Iowa 2 - Union	100.00%
357	CMA414A	Iowa 3 - Monroe	99.84%
358	CMA416A	Iowa 5 - Jackson	99.98%

359	CMA417A	Iowa 6 - Iowa	99.90%
360	CMA418A	Iowa 7 - Audubon	99.89%
361	CMA419A	Iowa 8 - Monona	97.24%
362	CMA420A	Iowa 9 - Ida	99.70%
363	CMA421A	Iowa 10 - Humbolt	98.81%
364	CMA422A	Iowa 11 - Hardin	99.99%
365	CMA423A	Iowa 12 - Winneshiek	99.10%
366	CMA424A	Iowa 13 - Mitchell	99.81%
367	CMA425A	Iowa 14 - Kossuth	98.40%
368	CMA426A	Iowa 15 - Dickinson	99.52%
369	CMA427A	Iowa 16 - Lyon	98.35%
370	CMA430A	Kansas 3 - Jewell	95.06%
371	CMA431A	Kansas 4 - Marshall	99.48%
372	CMA432A	Kansas 5 - Brown	99.77%
373	CMA434A	Kansas 7 - Trego	99.25%
374	CMA435A	Kansas 8 - Ellsworth	97.25%
375	CMA437A	Kansas 10 - Franklin	98.63%
376	CMA438A	Kansas 11 - Hamilton	97.04%
377	CMA443A	Kentucky 1 - Fulton	97.59%
378	CMA444A	Kentucky 2 - Union	99.44%
379	CMA445A	Kentucky 3 - Meade	99.97%
380	CMA446A	Kentucky 4 - Spencer	99.94%
381	CMA447A	Kentucky 5 - Barren	99.97%
382	CMA448A	Kentucky 6 - Madison	100.00%
383	CMA449A	Kentucky 7 - Trimble	99.33%
384	CMA450A	Kentucky 8 - Mason	97.34%
385	CMA451A	Kentucky 9 - Elliott	99.96%
386	CMA452A	Kentucky 10 - Powell	99.98%
387	CMA453A	Kentucky 11 - Clay	99.98%
388	CMA454A	Louisiana 1 - Claiborne	99.91%
389	CMA455A	Louisiana 2 - Morehouse	99.65%
390	CMA456A	Louisiana 3 - De Soto	99.93%
391	CMA457A	Louisiana 4 - Caldwell	99.75%
392	CMA458A	Louisiana 5 - Beauregard	99.86%
393	CMA459A	Louisiana 6 - Iberville	95.82%
394	CMA460A	Louisiana 7 - West Feliciana	99.86%
395	CMA461A	Louisiana 8 - St. James	98.31%
396	CMA463A	Maine 1 - Oxford	96.98%
397	CMA465A	Maine 3 - Kennebec	98.53%
398	CMA466A	Maine 4 - Washington	99.66%
399	CMA467A	Maryland 1 - Garrett	99.84%
400	CMA468A	Maryland 2 - Kent	99.45%
401	CMA469A	Maryland 3 - Frederick	99.95%
402	CMA470A	Massachusetts 1 - Franklin	99.67%
403	CMA471A	Massachusetts 2 - Barnstable	99.78%
404	CMA472A	Michigan 1 - Gogebic	96.21%

405	CMA473A	Michigan 2 - Alger	99.84%
406	CMA474A	Michigan 3 - Emmet	99.97%
407	CMA475A	Michigan 4 - Cheboygan	99.96%
408	CMA476A	Michigan 5 - Manistee	99.82%
409	CMA477A	Michigan 6 - Roscommon	99.90%
410	CMA478A	Michigan 7 - Newaygo	99.98%
411	CMA479A	Michigan 8 - Allegan	99.93%
412	CMA480A	Michigan 9 - Cass	100.00%
413	CMA481A	Michigan 10 - Tuscola	99.93%
414	CMA486A	Minnesota 5 - Wilkin	95.65%
415	CMA487A	Minnesota 6 - Hubbard	99.94%
416	CMA488A	Minnesota 7 - Chippewa	97.97%
417	CMA489A	Minnesota 8 - Lac qui Parle	99.61%
418	CMA490A	Minnesota 9 - Pipestone	100.00%
419	CMA491A	Minnesota 10 - Le Sueur	99.56%
420	CMA492A	Minnesota 11 - Goodhue	97.51%
421	CMA493A	Mississippi 1 - Tunica	99.90%
422	CMA494A	Mississippi 2 - Benton	100.00%
423	CMA495A	Mississippi 3 - Bolivar	97.25%
424	CMA496A	Mississippi 4 - Yalobusha	99.68%
425	CMA497A	Mississippi 5 - Washington	96.14%
426	CMA498A	Mississippi 6 - Montgomery	99.15%
427	CMA499A	Mississippi 7 - Leake	100.00%
428	CMA500A	Mississippi 8 - Claiborne	100.00%
429	CMA501A	Mississippi 9 - Copiah	99.94%
430	CMA502A	Mississippi 10 - Smith	97.84%
431	CMA503A	Mississippi 11 - Lamar	99.88%
432	CMA504A	Missouri 1 - Atchison	99.78%
433	CMA505A	Missouri 2 - Harrison	99.48%
434	CMA506A	Missouri 3 - Schuyler	98.56%
435	CMA507A	Missouri 4 - De Kalb	99.49%
436	CMA508A	Missouri 5 - Linn	98.47%
437	CMA509A	Missouri 6 - Marion	99.41%
438	CMA510A	Missouri 7 - Saline	99.58%
439	CMA511A	Missouri 8 - Callaway	99.43%
440	CMA512A	Missouri 9 - Bates	99.96%
441	CMA513A	Missouri 10 - Benton	99.50%
442	CMA514A	Missouri 11 - Moniteau	99.95%
443	CMA516A	Missouri 13 - Washington	98.44%
444	CMA518A	Missouri 15 - Stone	96.35%
445	CMA519A	Missouri 16 - Laclede	98.67%
446	CMA520A	Missouri 17 - Shannon	95.04%
447	CMA521A	Missouri 18 - Perry	99.90%
448	CMA522A	Missouri 19 - Stoddard	97.18%
449	CMA534A	Nebraska 2 - Cherry	95.76%
450	CMA535A	Nebraska 3 - Knox	99.63%

451	CMA536A	Nebraska 4 - Grant	95.23%
452	CMA537A	Nebraska 5 - Boone	99.35%
453	CMA538A	Nebraska 6 - Keith	98.93%
454	CMA539A	Nebraska 7 - Hall	99.37%
455	CMA541A	Nebraska 9 - Adams	99.82%
456	CMA542A	Nebraska 10 - Cass	99.81%
457	CMA548A	New Hampshire 1 - Coos	95.95%
458	CMA549A	New Hampshire 2 - Carroll	99.84%
459	CMA550A	New Jersey 1 - Hunterdon	100.00%
460	CMA551A	New Jersey 2 - Ocean	99.88%
461	CMA552A	New Jersey 3 - Sussex	99.99%
462	CMA559A	New York 1 - Jefferson	99.97%
463	CMA560A	New York 2 - Franklin	99.99%
464	CMA561A	New York 3 - Chautauqua	100.00%
465	CMA562A	New York 4 - Yates	100.00%
466	CMA563A	New York 5 - Otsego	100.00%
467	CMA564A	New York 6 - Columbia	100.00%
468	CMA565A	North Carolina 1 - Cherokee	99.98%
469	CMA566A	North Carolina 2 - Yancey	99.99%
470	CMA567A	North Carolina 3 - Ashe	99.80%
471	CMA568A	North Carolina 4 - Henderson	99.95%
472	CMA569A	North Carolina 5 - Anson	98.57%
473	CMA570A	North Carolina 6 - Chatham	99.84%
474	CMA571A	North Carolina 7 - Rockingham	99.90%
475	CMA572A	North Carolina 8 - Northampton	99.95%
476	CMA573A	North Carolina 9 - Camden	98.27%
477	CMA574A	North Carolina 10 - Harnett	97.76%
478	CMA575A	North Carolina 11 - Hoke	97.08%
479	CMA576A	North Carolina 12 - Sampson	98.73%
480	CMA577A	North Carolina 13 - Greene	99.88%
481	CMA578A	North Carolina 14 - Pitt	97.18%
482	CMA579A	North Carolina 15 - Cabarrus	99.99%
483	CMA583A	North Dakota 4 - McKenzie	96.52%
484	CMA584A	North Dakota 5 - Kidder	99.20%
485	CMA585A	Ohio 1 - Williams	100.01%
486	CMA586A	Ohio 2 - Sandusky	99.95%
487	CMA587A	Ohio 3 - Ashtabula	99.88%
488	CMA588A	Ohio 4 - Mercer	99.86%
489	CMA589A	Ohio 5 - Hancock	99.16%
490	CMA590A	Ohio 6 - Morrow	99.99%
491	CMA591A	Ohio 7 - Tuscarawas	99.60%
492	CMA592A	Ohio 8 - Clinton	99.54%
493	CMA593A	Ohio 9 - Ross	99.88%
494	CMA594A	Ohio 10 - Perry	98.59%
495	CMA595A	Ohio 11 - Columbiana	99.99%
496	CMA598A	Oklahoma 3 - Grant	98.34%

497	CMA599A	Oklahoma 4 - Nowata	97.62%
498	CMA600A	Oklahoma 5 - Roger Mills	99.34%
499	CMA601A	Oklahoma 6 - Seminole	99.33%
500	CMA602A	Oklahoma 7 - Beckham	99.94%
501	CMA603A	Oklahoma 8 - Jackson	99.13%
502	CMA604A	Oklahoma 9 - Garvin	97.66%
503	CMA605A	Oklahoma 10 - Haskell	98.77%
504	CMA606A	Oregon 1 - Clatsop	99.96%
505	CMA607A	Oregon 2 - Hood River	99.78%
506	CMA609A	Oregon 4 - Lincoln	99.94%
507	CMA610A	Oregon 5 - Coos	97.07%
508	CMA612A	Pennsylvania 1 - Crawford	100.00%
509	CMA613A	Pennsylvania 2 - McKean	99.76%
510	CMA614A	Pennsylvania 3 - Potter	98.87%
511	CMA615A	Pennsylvania 4 - Bradford	100.00%
512	CMA616A	Pennsylvania 5 - Wayne	99.95%
513	CMA617A	Pennsylvania 6 - Lawrence	100.00%
514	CMA618A	Pennsylvania 7 - Jefferson	99.94%
515	CMA619A	Pennsylvania 8 - Union	99.98%
516	CMA620A	Pennsylvania 9 - Greene	99.95%
517	CMA621A	Pennsylvania 10 - Bedford	99.88%
518	CMA622A	Pennsylvania 11 - Huntingdon	100.00%
519	CMA623A	Pennsylvania 12 - Lebanon	100.00%
520	CMA624A	Rhode Island 1 - Newport	100.00%
521	CMA625A	South Carolina 1 - Oconee	99.93%
522	CMA626A	South Carolina 2 - Laurens	99.89%
523	CMA627A	South Carolina 3 - Cherokee	99.98%
524	CMA628A	South Carolina 4 - Chesterfield	96.50%
525	CMA629A	South Carolina 5 - Georgetown	99.95%
526	CMA630A	South Carolina 6 - Clarendon	99.85%
527	CMA631A	South Carolina 7 - Calhoun	99.97%
528	CMA632A	South Carolina 8 - Hampton	99.75%
529	CMA633A	South Carolina 9 - Lancaster	99.90%
530	CMA637A	South Dakota 4 - Marshall	98.06%
531	CMA640A	South Dakota 7 - Sully	99.66%
532	CMA641A	South Dakota 8 - Kingsbury	99.32%
533	CMA642A	South Dakota 9 - Hanson	98.91%
534	CMA643A	Tennessee 1 - Lake	99.91%
535	CMA644A	Tennessee 2 - Cannon	99.99%
536	CMA645A	Tennessee 3 - Macon	99.95%
537	CMA646A	Tennessee 4 - Hamblen	98.79%
538	CMA647A	Tennessee 5 - Fayette	99.85%
539	CMA648A	Tennessee 6 - Giles	99.86%
540	CMA649A	Tennessee 7 - Bledsoe	100.00%
541	CMA650A	Tennessee 8 - Johnson	100.00%
542	CMA651A	Tennessee 9 - Maury	100.00%

543	CMA653A	Texas 2 - Hansford	95.61%
544	CMA655A	Texas 4 - Briscoe	99.98%
545	CMA657A	Texas 6 - Jack	97.92%
546	CMA658A	Texas 7 - Fanni	99.43%
547	CMA660A	Texas 9 - Runnels	99.75%
548	CMA661A	Texas 10 - Navarro	99.92%
549	CMA662A	Texas 11 - Cherokee	99.64%
550	CMA664A	Texas 13 - Reeves	97.71%
551	CMA666A	Texas 15 - Concho	98.15%
552	CMA667A	Texas 16 - Bureson	99.63%
553	CMA668A	Texas 17 - Newton	98.16%
554	CMA669A	Texas 18 - Edwards	98.85%
555	CMA670A	Texas 19 - Atascosa	98.36%
556	CMA671A	Texas 20 - Wilson	99.72%
557	CMA679A	Vermont 1 - Franklin	99.30%
558	CMA680A	Vermont 2 - Addison	99.99%
559	CMA681A	Virginia 1 - Lee	99.96%
560	CMA682A	Virginia 2 - Tazewell	99.64%
561	CMA683A	Virginia 3 - Giles	99.94%
562	CMA684A	Virginia 4 - Bedford	99.92%
563	CMA685A	Virginia 5 - Bath	96.23%
564	CMA686A	Virginia 6 - Highland	99.92%
565	CMA687A	Virginia 7 - Buckingham	96.22%
566	CMA688A	Virginia 8 - Amelia	99.93%
567	CMA689A	Virginia 9 - Greensville	97.35%
568	CMA690A	Virginia 10 - Frederick	99.98%
569	CMA691A	Virginia 11 - Madison	100.00%
570	CMA692A	Virginia 12 - Caroline	99.94%
571	CMA695A	Washington 3 - Ferry	99.16%
572	CMA697A	Washington 5 - Kittitas	99.28%
573	CMA700A	Washington 8 - Whitman	96.84%
574	CMA702A	West Virginia 2 - Wetzel	99.80%
575	CMA703A	West Virginia 3 - Monongalia	100.00%
576	CMA704A	West Virginia 4 - Grant	99.92%
577	CMA705A	West Virginia 5 - Tucker	99.10%
578	CMA706A	West Virginia 6 - Lincoln	100.00%
579	CMA707A	West Virginia 7 - Raleigh	100.00%
580	CMA708A	Wisconsin 1 - Burnett	99.73%
581	CMA710A	Wisconsin 3 - Vilas	100.00%
582	CMA711A	Wisconsin 4 - Marinette	100.01%
583	CMA712A	Wisconsin 5 - Pierce	98.74%
584	CMA713A	Wisconsin 6 - Trempealeau	99.68%
585	CMA714A	Wisconsin 7 - Wood	99.66%
586	CMA715A	Wisconsin 8 - Vernon	99.22%
587	CMA716A	Wisconsin 9 - Columbia	99.98%
588	CMA717A	Wisconsin 10 - Door	100.00%

589	CMA723A	Puerto Rico 1 - Rincon	100.00%
590	CMA724A	Puerto Rico 2 - Adjuntas	100.00%
591	CMA725A	Puerto Rico 3 - Ciales	100.00%
592	CMA726A	Puerto Rico 4 - Aibonito	100.00%
593	CMA727A	Puerto Rico 5 - Ceiba	100.00%
594	CMA728A	Puerto Rico 6 - Vieques	100.00%
595	CMA729A	Puerto Rico 7 - Culebra	100.00%
596	CMA730A	Virgin Islands 1 - St. Thomas Island	100.00%
597	CMA731A	Virgin Islands 2 - St. Croix Island	100.00%
598	CMA732A	Guam	100.00%

**Block A < 95% But No Contiguous 50 Sq Mi Area**

	<b>CMA</b>	<b>DESC</b>	<b>A-Block Percent Licensed Area</b>
1	CMA169A	Mayaguez, PR	90.46%
2	CMA733A	American Samoa	70.68%
3	CMA734A	Northern Mariana Islands	64.82%

**Block B >= 95%**

	<b>CMA</b>	<b>DESC</b>	<b>A-Block Percent Licensed Area</b>
1	CMA001B	New York, NY-NJ/Nassau-Suffolk, NY/Newark, Jersey	99.23%
2	CMA002B	Los Angeles-Long Beach/Anaheim-Santa Ana-Garden Gr	96.16%
3	CMA003B	Chicago, IL	100.00%
4	CMA004B	Philadelphia, PA	100.00%
5	CMA005B	Detroit/Ann Arbor, MI	99.96%
6	CMA006B	Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	99.42%
7	CMA007B	San Francisco-Oakland, CA	99.05%
8	CMA008B	Washington, DC-MD-VA	96.00%
9	CMA009B	Dallas-Forth Worth, TX	100.00%
10	CMA010B	Houston, TX	99.68%
11	CMA011B	St. Louis, MO-IL	100.00%
12	CMA012B	Miami-Fort Lauderdale-Hollywood, FL	97.15%
13	CMA013B	Pittsburgh, PA	99.83%
14	CMA014B	Baltimore, MD	98.70%
15	CMA015B	Minneapolis-St. Paul, MN-WI	99.70%
16	CMA016B	Cleveland, OH	100.00%
17	CMA017B	Atlanta, GA	100.00%

18	CMA019B	Denver-Boulder, CO	96.07%
19	CMA021B	Milwaukee, WI	100.00%
20	CMA022B	Tampa-St. Petersburg, FL	99.93%
21	CMA023B	Cincinnati, OH-KY-IN	99.98%
22	CMA024B	Kansas City, MO-KS	97.91%
23	CMA025B	Buffalo, NY	100.00%
24	CMA027B	San Jose, CA	99.95%
25	CMA028B	Indianapolis, IN	100.00%
26	CMA030B	Portland, OR-WA	98.23%
27	CMA031B	Columbus, OH	99.99%
28	CMA032B	Hartford-New Britain-Bristol, CT	100.00%
29	CMA033B	San Antonio, TX	99.88%
30	CMA034B	Rochester, NY	99.90%
31	CMA035B	Sacramento, CA	99.71%
32	CMA036B	Memphis, TN-AR-MS	99.74%
33	CMA037B	Louisville, KY-IN	99.95%
34	CMA038B	Providence-Warwick-Pawtucket, RI	100.00%
35	CMA040B	Dayton, OH	99.95%
36	CMA041B	Birmingham, AL	99.46%
37	CMA042B	Bridgeport-Stamford-Norwalk-Danbury, CT	100.00%
38	CMA043B	Norfolk-Virginia Beach-Portsmouth, VA/NC	97.74%
39	CMA044B	Albany-Schenectady-Troy, NY	99.77%
40	CMA045B	Oklahoma City, OK	99.87%
41	CMA046B	Nashville-Davidson, TN	99.99%
42	CMA047B	Greensboro-Winston-Salem-High Point, NC	98.72%
43	CMA048B	Toledo, OH-MI	99.63%
44	CMA049B	New Haven-West Haven-Waterbury-Meriden, CT	99.88%
45	CMA050B	Honolulu, HI	96.28%
46	CMA051B	Jacksonville, FL	98.74%
47	CMA052B	Akron, OH	100.00%
48	CMA053B	Syracuse, NY	99.38%
49	CMA054B	Gary-Hammond-East Chicago, IN	99.93%
50	CMA055B	Worcester-Fitchburg-Leominster, MA	99.96%
51	CMA056B	Northeast Pennsylvania, PA	98.30%
52	CMA057B	Tulsa, OK	98.41%
53	CMA058B	Allentown-Bethlehem-Easton, PA-NJ	99.03%
54	CMA059B	Richmond, VA	99.99%
55	CMA060B	Orlando, FL	100.00%
56	CMA061B	Charlotte-Gastonia, NC	99.92%
57	CMA062B	New Brunswick-Perth Amboy-Sayreville, NJ	99.81%
58	CMA063B	Springfield-Chicopee-Holyoke, MA	100.00%
59	CMA064B	Grand Rapids, MI	99.97%
60	CMA065B	Omaha, NE-IA	99.95%
61	CMA066B	Youngstown-Warren, OH	99.96%
62	CMA067B	Greenville-Spartanburg, SC	99.97%
63	CMA068B	Flint, MI	100.00%

64	CMA069B	Wilmington, DE-NJ-MD	99.93%
65	CMA070B	Long Branch-Asbury Park, NJ	99.79%
66	CMA071B	Raleigh-Durham, NC	99.89%
67	CMA072B	West Palm Beach-Boca Raton, FL	97.81%
68	CMA075B	Austin, TX	99.95%
69	CMA076B	New Bedford-Fall River, MA	99.37%
70	CMA078B	Lansing-East Lansing, MI	99.96%
71	CMA079B	Knoxville, TN	98.90%
72	CMA080B	Baton Rouge, LA	100.00%
73	CMA081B	El Paso, TX	95.90%
74	CMA083B	Mobile, AL	99.74%
75	CMA084B	Harrisburg, PA	98.69%
76	CMA085B	Johnson City-Kingsport-Bristol, TN-VA	99.98%
77	CMA086B	Albuquerque, NM	97.71%
78	CMA087B	Canton, OH	100.00%
79	CMA088B	Chattanooga, TN-GA	100.00%
80	CMA089B	Wichita, KS	95.93%
81	CMA090B	Charleston-North Charleston, SC	99.98%
82	CMA092B	Little Rock-North Little Rock, AR	99.98%
83	CMA094B	Saginaw-Bay City-Midland, MI	100.00%
84	CMA095B	Columbia, SC	99.91%
85	CMA096B	Fort Wayne, IN	99.43%
86	CMA098B	Davenport-Rock Island-Moline, IA/IL	99.57%
87	CMA099B	York, PA	99.97%
88	CMA100B	Shreveport, Louisiana	99.72%
89	CMA101B	Beaumont-Port Arthur, TX	97.10%
90	CMA102B	Des Moines, IA	100.00%
91	CMA103B	Peoria, IL	99.93%
92	CMA105B	Lancaster, PA	99.97%
93	CMA106B	Jackson, MS	99.94%
94	CMA107B	Stockton, CA	95.37%
95	CMA108B	Augusta, GA/SC	98.48%
96	CMA109B	Spokane, WA	99.83%
97	CMA110B	Huntington-Ashland, WV/KY/OH	99.62%
98	CMA111B	Vallejo-Fairfield-Napa, CA	99.98%
99	CMA112B	Corpus Christi, TX	99.96%
100	CMA113B	Madison, WI	99.99%
101	CMA114B	Lakeland-Winter Haven, FL	99.86%
102	CMA115B	Utica-Rome, NY	96.32%
103	CMA116B	Lexington-Fayette, KY	99.96%
104	CMA118B	Reading, PA	97.54%
105	CMA119B	Evansville, IN/KY	100.00%
106	CMA120B	Huntsville, AL	99.25%
107	CMA121B	Trenton, NJ	99.60%
108	CMA122B	Binghamton, NY	100.00%
109	CMA123B	Santa Rosa-Petaluma, CA	99.83%

110	CMA124B	Santa Barbara-Santa Maria-Lompoc, CA	99.06%
111	CMA125B	Appleton-Oskosh-Neenah, WI	99.82%
112	CMA126B	Salinas-Seaside-Monterey, CA	99.70%
113	CMA127B	Pensacola, FL	100.00%
114	CMA128B	McAllen-Edinburg-Mission, TX	99.90%
115	CMA129B	South Bend-Mishawaka, IN	99.98%
116	CMA130B	Erie, PA	99.78%
117	CMA131B	Rockford, IL	99.99%
118	CMA132B	Kalamazoo, MI	99.99%
119	CMA133B	Manchester-Nashua, NH	99.97%
120	CMA134B	Atlantic City, NJ	99.96%
121	CMA136B	Lorain-Elyria, OH	100.00%
122	CMA137B	Melbourne-Titusville-Palm Bay, FL	100.00%
123	CMA138B	Macon-Warner Robins, GA	99.99%
124	CMA139B	Montgomery, AL	99.96%
125	CMA140B	Charleston, WV	99.95%
126	CMA142B	Modesto, CA	98.63%
127	CMA144B	Orange County, NY	99.97%
128	CMA145B	Hamilton-Middletown, OH	100.00%
129	CMA146B	Daytona Beach, FL	100.00%
130	CMA147B	Ponce, PR	99.47%
131	CMA148B	Salem, OR	98.29%
132	CMA149B	Fayetteville, NC	99.74%
133	CMA151B	Poughkeepsie, NY	100.00%
134	CMA152B	Portland, ME	99.55%
135	CMA153B	Columbus, GA-AL	99.99%
136	CMA154B	New London-Norwich, CT	99.94%
137	CMA155B	Savannah, GA	99.58%
138	CMA156B	Portsmouth-Dover-Rochester, NH-ME	99.77%
139	CMA158B	Lima, OH	98.42%
140	CMA159B	Provo-Orem, UT	96.68%
141	CMA160B	Killeen-Temple, TX	100.00%
142	CMA161B	Lubbock, TX Counties - Lubbock	97.54%
143	CMA162B	Brownsville-Harlingen, TX	99.22%
144	CMA163B	Springfield, MO	98.43%
145	CMA164B	Fort Myers, FL Counties - Lee	100.00%
146	CMA165B	Fort Smith, AK-OK	100.00%
147	CMA166B	Hickory, NC	96.38%
148	CMA167B	Sarasota, FL	99.89%
149	CMA168B	Tallahassee, FL	99.99%
150	CMA170B	Galveston-Texas City, TX	99.17%
151	CMA172B	Lincoln, NE	99.98%
152	CMA173B	Biloxi-Gulfport, MS	95.04%
153	CMA174B	Lafayette, LA	100.00%
154	CMA175B	Santa Cruz, CA	99.79%
155	CMA176B	Springfield, IL	97.28%

156	CMA177B	Battle Creek, MI	100.00%
157	CMA178B	Wheeling, WV-OH	99.56%
158	CMA179B	Topeka, KS	99.88%
159	CMA180B	Springfield, OH	99.85%
160	CMA181B	Muskegon, MI	100.00%
161	CMA182B	Fayetteville-Springdale, AK	99.93%
162	CMA183B	Asheville, NC	95.58%
163	CMA185B	Terre Haute, IN	99.64%
164	CMA186B	Green Bay, WI	99.73%
165	CMA188B	Amarillo, TX	98.21%
166	CMA189B	Racine, WI	99.92%
167	CMA190B	Boise City, ID	99.95%
168	CMA192B	Gainesville, FL	99.99%
169	CMA193B	Benton Harbor, MI	100.00%
170	CMA194B	Waco, TX	99.98%
171	CMA195B	Cedar Rapids, IA	99.90%
172	CMA196B	Champaign-Urbana-Rantoul, IL	99.95%
173	CMA197B	Lake Charles, LA	99.96%
174	CMA198B	St. Cloud, MN	99.89%
175	CMA199B	Steubenville-Weirton, OH-WV	99.98%
176	CMA200B	Parkersburg-Marietta, OH-WV	99.18%
177	CMA201B	Waterloo-Cedar Falls, IA	99.92%
178	CMA203B	Lynchburg, VA	99.39%
179	CMA205B	Alexandria, LA	99.80%
180	CMA206B	Longview-Marshall, TX	100.00%
181	CMA207B	Jackson, MI	99.99%
182	CMA208B	Fort Pierce, FL	98.95%
183	CMA209B	Clarksville-Hopkinsville, TN/KY	99.95%
184	CMA211B	Bradenton, FL	99.91%
185	CMA213B	Pittsfield, MA	100.00%
186	CMA214B	Richland-Kennewick-Pasco, WA	98.53%
187	CMA216B	Janesville-Beloit, WI	100.01%
188	CMA217B	Anderson, IN	99.99%
189	CMA218B	Wilmington, NC	100.00%
190	CMA219B	Monroe, LA	99.98%
191	CMA220B	Abilene, TX	100.00%
192	CMA222B	Tuscaloosa, AL	99.98%
193	CMA223B	Elkhart-Goshen, IN	99.99%
194	CMA224B	Bangor, ME	96.12%
195	CMA225B	Altoona, PA	97.62%
196	CMA226B	Florence, AL	99.99%
197	CMA227B	Anderson, SC	99.88%
198	CMA228B	Vineland-Millville-Bridgeton, NJ	99.64%
199	CMA229B	Medford, OR	95.48%
200	CMA230B	Decatur, IL	99.96%
201	CMA231B	Mansfield, OH	99.98%

202	CMA232B	Eau Claire, WI	99.38%
203	CMA233B	Wichita Falls, TX	99.34%
204	CMA234B	Athens, GA	100.00%
205	CMA235B	Petersburg-Colonial Heights-Hopewell, VA	99.99%
206	CMA236B	Muncie, IN	100.00%
207	CMA237B	Tyler, TX	99.88%
208	CMA238B	Sharon, PA	99.73%
209	CMA239B	Joplin, MO	100.02%
210	CMA240B	Texarkana, TX - Texarkana, AR	99.59%
211	CMA241B	Pueblo, CO	98.82%
212	CMA242B	Olympia, WA	96.81%
213	CMA244B	Kenosha, WI	100.00%
214	CMA245B	Ocala, FL	99.85%
215	CMA246B	Dothan, AL	99.93%
216	CMA247B	Lafayette, IN	100.00%
217	CMA248B	Burlington, VT	99.95%
218	CMA249B	Anniston, AL	99.92%
219	CMA250B	Bloomington-Normal, IL	99.82%
220	CMA251B	Williamsport, PA	99.21%
221	CMA252B	Pascagoula, MS	98.27%
222	CMA253B	Sioux City, IA-NE	98.48%
223	CMA254B	Redding, CA	99.85%
224	CMA255B	Odessa, TX	100.00%
225	CMA256B	Charlottesville, VA	99.51%
226	CMA257B	Hagerstown, MD	99.60%
227	CMA258B	Jacksonville, NC	99.59%
228	CMA259B	State College, PA	98.94%
229	CMA260B	Lawton, OK	98.97%
230	CMA261B	Albany, GA	97.43%
231	CMA262B	Danville, VA	99.52%
232	CMA263B	Wausau, WI	99.46%
233	CMA264B	Florence, SC	99.77%
234	CMA265B	Fort Walton Beach, FL	99.99%
235	CMA266B	Glens Falls, NY	97.89%
236	CMA267B	Sioux Falls, SD	99.98%
237	CMA269B	Cumberland, MD-WV	99.65%
238	CMA271B	Kokomo, IN	99.93%
239	CMA272B	Gadsden, AL	99.82%
240	CMA273B	Kankakee, IL	99.96%
241	CMA274B	Yuba City, CA	99.70%
242	CMA275B	St. Joseph, MO	100.01%
243	CMA276B	Grand Forks, ND-MN	96.48%
244	CMA277B	Sheboygan, WI	100.00%
245	CMA278B	Columbia, MO	99.93%
246	CMA279B	Lewiston-Auburn, ME	99.88%
247	CMA280B	Burlington, NC	99.95%

248	CMA281B	Laredo, TX	99.95%
249	CMA282B	Bloomington, IN	100.00%
250	CMA283B	Panama City, FL	99.99%
251	CMA284B	Elmira, NY	99.57%
252	CMA286B	Dubuque, IA	100.00%
253	CMA287B	Bryan-College Station, TX	99.85%
254	CMA288B	Rochester, MN	99.99%
255	CMA290B	La Crosse, WI	99.52%
256	CMA291B	Pine Bluff, AK	99.82%
257	CMA292B	Sherman-Denison, TX	99.87%
258	CMA293B	Owensboro, KY	99.77%
259	CMA295B	Midland, TX	100.00%
260	CMA296B	Iowa City, IA	99.99%
261	CMA298B	Bismarck, ND	95.18%
262	CMA300B	Victoria, TX	99.91%
263	CMA301B	Lawrence, KS	99.96%
264	CMA302B	Enid, OK	99.94%
265	CMA303B	Aurora-Elgin, IL	99.97%
266	CMA304B	Joliet, IL	99.91%
267	CMA307B	Alabama 1 - Franklin	99.87%
268	CMA308B	Alabama 2 - Jackson	99.99%
269	CMA309B	Alabama 3 - Lamar	96.47%
270	CMA310B	Alabama 4 - Bibb	99.97%
271	CMA311B	Alabama 5 - Cleburne	99.46%
272	CMA312B	Alabama 6 - Washington	96.48%
273	CMA313B	Alabama 7 - Butler	99.77%
274	CMA314B	Alabama 8 - Lee	99.48%
275	CMA319B	Arizona 2 - Coconino	96.12%
276	CMA322B	Arizona 5 - Gila	95.06%
277	CMA324B	Arkansas 1 - Madison	98.96%
278	CMA325B	Arkansas 2 - Marion	98.85%
279	CMA326B	Arkansas 3 - Sharp	99.86%
280	CMA327B	Arkansas 4 - Clay	99.88%
281	CMA328B	Arkansas 5 - Cross	99.87%
282	CMA329B	Arkansas 6 - Cleburne	99.85%
283	CMA330B	Arkansas 7 - Pope	99.80%
284	CMA331B	Arkansas 8 - Franklin	99.78%
285	CMA332B	Arkansas 9 - Polk	100.00%
286	CMA333B	Arkansas 10 - Garland	100.00%
287	CMA334B	Arkansas 11 - Hempstead	99.98%
288	CMA335B	Arkansas 12 - Ouachita	97.92%
289	CMA339B	California 4 - Madera	95.09%
290	CMA340B	California 5 - San Luis Obispo	99.73%
291	CMA347B	California 12 - Kings	99.02%
292	CMA348B	Colorado 1 - Moffat	97.30%
293	CMA357B	Connecticut 1 - Litchfield	99.93%

294	CMA358B	Connecticut 2 - Windham	100.00%
295	CMA359B	Delaware 1 - Kent	100.00%
296	CMA360B	Florida 1 - Collier	99.26%
297	CMA361B	Florida 2 - Glades	96.48%
298	CMA362B	Florida 3 - Hardee	98.77%
299	CMA363B	Florida 4 - Citrus	99.72%
300	CMA364B	Florida 5 - Putnam	99.99%
301	CMA365B	Florida 6 - Dixie	99.98%
302	CMA366B	Florida 7 - Hamilton	100.00%
303	CMA367B	Florida 8 - Jefferson	99.90%
304	CMA368B	Florida 9 - Calhoun	99.42%
305	CMA369B	Florida 10 - Walton	99.04%
306	CMA371B	Georgia 1 - Whitfield	99.92%
307	CMA372B	Georgia 2 - Dawson	99.91%
308	CMA373B	Georgia 3 - Chattooga	100.00%
309	CMA374B	Georgia 4 - Jasper	99.64%
310	CMA375B	Georgia 5 - Haralson	99.67%
311	CMA376B	Georgia 6 - Spalding	99.87%
312	CMA377B	Georgia 7 - Hancock	99.90%
313	CMA378B	Georgia 8 - Warren	98.64%
314	CMA379B	Georgia 9 - Marion	97.23%
315	CMA380B	Georgia 10 - Bleckley	99.40%
316	CMA381B	Georgia 11 - Toombs	99.11%
317	CMA382B	Georgia 12 - Liberty	97.89%
318	CMA383B	Georgia 13 - Early	99.90%
319	CMA384B	Georgia 14 - Worth	99.99%
320	CMA386B	Hawaii 2 - Maui	98.76%
321	CMA387B	Hawaii 3 - Hawaii	96.97%
322	CMA393B	Idaho 6 - Clark	95.48%
323	CMA394B	Illinois 1 - Jo Daviess	99.65%
324	CMA395B	Illinois 2 - Bureau	99.43%
325	CMA396B	Illinois 3 - Mercer	97.91%
326	CMA397B	Illinois 4 - Adams	99.13%
327	CMA399B	Illinois 6 - Montgomery	99.15%
328	CMA400B	Illinois 7 - Vermilion	99.72%
329	CMA401B	Illinois 8 - Washington	99.50%
330	CMA402B	Illinois 9 - Clay	99.27%
331	CMA403B	Indiana 1 - Newton	99.88%
332	CMA404B	Indiana 2 - Kosciusko	100.00%
333	CMA405B	Indiana 3 - Huntington	99.98%
334	CMA406B	Indiana 4 - Miami	99.83%
335	CMA407B	Indiana 5 - Warren	99.99%
336	CMA408B	Indiana 6 - Randolph	99.97%
337	CMA409B	Indiana 7 - Owen	99.95%
338	CMA410B	Indiana 8 - Brown	99.98%
339	CMA411B	Indiana 9 - Decatur	99.07%

340	CMA412B	Iowa 1 - Mills	99.61%
341	CMA413B	Iowa 2 - Union	99.97%
342	CMA414B	Iowa 3 - Monroe	99.70%
343	CMA415B	Iowa 4 - Muscatine	99.43%
344	CMA416B	Iowa 5 - Jackson	100.00%
345	CMA417B	Iowa 6 - Iowa	99.45%
346	CMA418B	Iowa 7 - Audubon	99.81%
347	CMA419B	Iowa 8 - Monona	99.95%
348	CMA420B	Iowa 9 - Ida	99.96%
349	CMA421B	Iowa 10 - Humbolt	99.94%
350	CMA422B	Iowa 11 - Hardin	99.96%
351	CMA423B	Iowa 12 - Winneshiek	99.59%
352	CMA424B	Iowa 13 - Mitchell	99.64%
353	CMA425B	Iowa 14 - Kossuth	99.66%
354	CMA426B	Iowa 15 - Dickinson	99.89%
355	CMA427B	Iowa 16 - Lyon	98.82%
356	CMA429B	Kansas 2 - Norton	98.72%
357	CMA430B	Kansas 3 - Jewell	99.98%
358	CMA431B	Kansas 4 - Marshall	99.97%
359	CMA432B	Kansas 5 - Brown	97.91%
360	CMA434B	Kansas 7 - Trego	99.58%
361	CMA435B	Kansas 8 - Ellsworth	98.04%
362	CMA436B	Kansas 9 - Morris	98.98%
363	CMA437B	Kansas 10 - Franklin	99.65%
364	CMA439B	Kansas 12 - Hodgeman	95.55%
365	CMA440B	Kansas 13 - Edwards	97.57%
366	CMA441B	Kansas 14 - Reno	95.56%
367	CMA442B	Kansas 15 - Elk	99.89%
368	CMA443B	Kentucky 1 - Fulton	99.97%
369	CMA444B	Kentucky 2 - Union	96.73%
370	CMA445B	Kentucky 3 - Meade	100.00%
371	CMA446B	Kentucky 4 - Spencer	100.00%
372	CMA447B	Kentucky 5 - Barren	100.00%
373	CMA448B	Kentucky 6 - Madison	99.95%
374	CMA449B	Kentucky 7 - Trimble	99.98%
375	CMA450B	Kentucky 8 - Mason	99.97%
376	CMA451B	Kentucky 9 - Elliott	100.00%
377	CMA452B	Kentucky 10 - Powell	99.96%
378	CMA453B	Kentucky 11 - Clay	99.99%
379	CMA454B	Louisiana 1 - Claiborne	99.97%
380	CMA455B	Louisiana 2 - Morehouse	95.81%
381	CMA456B	Louisiana 3 - De Soto	98.40%
382	CMA457B	Louisiana 4 - Caldwell	99.80%
383	CMA458B	Louisiana 5 - Beauregard	99.34%
384	CMA459B	Louisiana 6 - Iberville	95.44%
385	CMA460B	Louisiana 7 - West Feliciana	97.95%

386	CMA461B	Louisiana 8 - St. James	100.00%
387	CMA463B	Maine 1 - Oxford	97.28%
388	CMA465B	Maine 3 - Kennebec	98.94%
389	CMA466B	Maine 4 - Washington	99.13%
390	CMA467B	Maryland 1 - Garrett	100.01%
391	CMA468B	Maryland 2 - Kent	97.22%
392	CMA469B	Maryland 3 - Frederick	99.21%
393	CMA470B	Massachusetts 1 - Franklin	100.00%
394	CMA471B	Massachusetts 2 - Barnstable	98.05%
395	CMA472B	Michigan 1 - Gogebic	96.62%
396	CMA473B	Michigan 2 - Alger	96.15%
397	CMA474B	Michigan 3 - Emmet	99.68%
398	CMA475B	Michigan 4 - Cheboygan	99.76%
399	CMA476B	Michigan 5 - Manistee	99.78%
400	CMA477B	Michigan 6 - Roscommon	99.83%
401	CMA478B	Michigan 7 - Newaygo	100.00%
402	CMA479B	Michigan 8 - Allegan	99.94%
403	CMA480B	Michigan 9 - Cass	100.00%
404	CMA481B	Michigan 10 - Tuscola	99.74%
405	CMA482B	Minnesota 1 - Kittson	98.50%
406	CMA486B	Minnesota 5 - Wilkin	99.94%
407	CMA487B	Minnesota 6 - Hubbard	98.42%
408	CMA488B	Minnesota 7 - Chippewa	98.06%
409	CMA489B	Minnesota 8 - Lac qui Parle	100.01%
410	CMA490B	Minnesota 9 - Pipestone	98.54%
411	CMA491B	Minnesota 10 - Le Sueur	99.98%
412	CMA492B	Minnesota 11 - Goodhue	99.98%
413	CMA493B	Mississippi 1 - Tunica	99.71%
414	CMA494B	Mississippi 2 - Benton	100.00%
415	CMA495B	Mississippi 3 - Bolivar	99.78%
416	CMA498B	Mississippi 6 - Montgomery	99.76%
417	CMA499B	Mississippi 7 - Leake	99.97%
418	CMA500B	Mississippi 8 - Claiborne	99.38%
419	CMA501B	Mississippi 9 - Copiah	98.15%
420	CMA502B	Mississippi 10 - Smith	99.14%
421	CMA503B	Mississippi 11 - Lamar	98.92%
422	CMA504B	Missouri 1 - Atchison	99.92%
423	CMA505B	Missouri 2 - Harrison	99.22%
424	CMA507B	Missouri 4 - De Kalb	99.99%
425	CMA508B	Missouri 5 - Linn	99.57%
426	CMA509B	Missouri 6 - Marion	99.09%
427	CMA510B	Missouri 7 - Saline	99.90%
428	CMA511B	Missouri 8 - Callaway	99.86%
429	CMA512B	Missouri 9 - Bates	98.83%
430	CMA513B	Missouri 10 - Benton	99.91%
431	CMA514B	Missouri 11 - Moniteau	100.00%

432	CMA515B	Missouri 12 - Maries	99.98%
433	CMA516B	Missouri 13 - Washington	99.93%
434	CMA517B	Missouri 14 - Barton	96.35%
435	CMA518B	Missouri 15 - Stone	99.98%
436	CMA519B	Missouri 16 - Laclede	99.94%
437	CMA520B	Missouri 17 - Shannon	99.99%
438	CMA521B	Missouri 18 - Perry	100.00%
439	CMA522B	Missouri 19 - Stoddard	99.97%
440	CMA535B	Nebraska 3 - Knox	97.72%
441	CMA537B	Nebraska 5 - Boone	99.89%
442	CMA538B	Nebraska 6 - Keith	98.14%
443	CMA539B	Nebraska 7 - Hall	99.99%
444	CMA541B	Nebraska 9 - Adams	98.81%
445	CMA542B	Nebraska 10 - Cass	99.90%
446	CMA549B	New Hampshire 2 - Carroll	99.30%
447	CMA550B	New Jersey 1 - Hunterdon	99.82%
448	CMA551B	New Jersey 2 - Ocean	99.73%
449	CMA552B	New Jersey 3 - Sussex	99.92%
450	CMA554B	New Mexico 2 - Colfax	99.22%
451	CMA556B	New Mexico 4 - Santa Fe	99.54%
452	CMA559B	New York 1 - Jefferson	99.20%
453	CMA560B	New York 2 - Franklin	99.60%
454	CMA561B	New York 3 - Chautauqua	99.91%
455	CMA562B	New York 4 - Yates	99.65%
456	CMA563B	New York 5 - Otsego	99.23%
457	CMA564B	New York 6 - Columbia	99.84%
458	CMA565B	North Carolina 1 - Cherokee	99.98%
459	CMA566B	North Carolina 2 - Yancey	99.44%
460	CMA567B	North Carolina 3 - Ashe	99.88%
461	CMA568B	North Carolina 4 - Henderson	99.90%
462	CMA569B	North Carolina 5 - Anson	99.41%
463	CMA570B	North Carolina 6 - Chatham	100.00%
464	CMA571B	North Carolina 7 - Rockingham	100.00%
465	CMA572B	North Carolina 8 - Northampton	99.90%
466	CMA573B	North Carolina 9 - Camden	97.81%
467	CMA574B	North Carolina 10 - Harnett	99.98%
468	CMA575B	North Carolina 11 - Hoke	100.01%
469	CMA576B	North Carolina 12 - Sampson	100.00%
470	CMA577B	North Carolina 13 - Greene	98.26%
471	CMA579B	North Carolina 15 - Cabarrus	99.18%
472	CMA582B	North Dakota 3 - Barnes	97.68%
473	CMA585B	Ohio 1 - Williams	98.70%
474	CMA586B	Ohio 2 - Sandusky	99.94%
475	CMA587B	Ohio 3 - Ashtabula	99.81%
476	CMA588B	Ohio 4 - Mercer	99.99%
477	CMA589B	Ohio 5 - Hancock	99.98%

478	CMA590B	Ohio 6 - Morrow	99.95%
479	CMA591B	Ohio 7 - Tuscarawas	99.98%
480	CMA592B	Ohio 8 - Clinton	99.91%
481	CMA593B	Ohio 9 - Ross	99.91%
482	CMA594B	Ohio 10 - Perry	99.98%
483	CMA595B	Ohio 11 - Columbiana	99.92%
484	CMA596B	Oklahoma 1 - Cimarron	99.41%
485	CMA597B	Oklahoma 2 - Harper	99.27%
486	CMA598B	Oklahoma 3 - Grant	99.71%
487	CMA599B	Oklahoma 4 - Nowata	99.92%
488	CMA600B	Oklahoma 5 - Roger Mills	96.41%
489	CMA601B	Oklahoma 6 - Seminole	99.56%
490	CMA602B	Oklahoma 7 - Beckham	98.54%
491	CMA603B	Oklahoma 8 - Jackson	96.77%
492	CMA604B	Oklahoma 9 - Garvin	99.91%
493	CMA605B	Oklahoma 10 - Haskell	97.66%
494	CMA606B	Oregon 1 - Clatsop	99.23%
495	CMA609B	Oregon 4 - Lincoln	97.27%
496	CMA612B	Pennsylvania 1 - Crawford	100.00%
497	CMA613B	Pennsylvania 2 - McKean	100.00%
498	CMA614B	Pennsylvania 3 - Potter	96.44%
499	CMA615B	Pennsylvania 4 - Bradford	97.04%
500	CMA616B	Pennsylvania 5 - Wayne	100.00%
501	CMA617B	Pennsylvania 6 - Lawrence	99.24%
502	CMA618B	Pennsylvania 7 - Jefferson	99.97%
503	CMA619B	Pennsylvania 8 - Union	99.97%
504	CMA620B	Pennsylvania 9 - Greene	99.95%
505	CMA621B	Pennsylvania 10 - Bedford	99.94%
506	CMA622B	Pennsylvania 11 - Huntingdon	98.98%
507	CMA623B	Pennsylvania 12 - Lebanon	100.01%
508	CMA624B	Rhode Island 1 - Newport	100.00%
509	CMA625B	South Carolina 1 - Oconee	98.20%
510	CMA626B	South Carolina 2 - Laurens	99.51%
511	CMA627B	South Carolina 3 - Cherokee	99.13%
512	CMA628B	South Carolina 4 - Chesterfield	99.90%
513	CMA629B	South Carolina 5 - Georgetown	100.00%
514	CMA630B	South Carolina 6 - Clarendon	100.00%
515	CMA631B	South Carolina 7 - Calhoun	99.93%
516	CMA632B	South Carolina 8 - Hampton	98.32%
517	CMA633B	South Carolina 9 - Lancaster	99.90%
518	CMA636B	South Dakota 3 - McPherson	97.08%
519	CMA637B	South Dakota 4 - Marshall	99.98%
520	CMA638B	South Dakota 5 - Custer	99.95%
521	CMA640B	South Dakota 7 - Sully	99.13%
522	CMA641B	South Dakota 8 - Kingsbury	97.89%
523	CMA642B	South Dakota 9 - Hanson	98.83%

524	CMA643B	Tennessee 1 - Lake	99.80%
525	CMA644B	Tennessee 2 - Cannon	99.98%
526	CMA645B	Tennessee 3 - Macon	97.96%
527	CMA646B	Tennessee 4 - Hamblen	95.19%
528	CMA647B	Tennessee 5 - Fayette	99.99%
529	CMA648B	Tennessee 6 - Giles	100.00%
530	CMA649B	Tennessee 7 - Bledsoe	97.86%
531	CMA650B	Tennessee 8 - Johnson	100.00%
532	CMA651B	Tennessee 9 - Maury	100.00%
533	CMA652B	Texas 1 - Dallam	98.99%
534	CMA653B	Texas 2 - Hansford	97.69%
535	CMA654B	Texas 3 - Parmer	99.33%
536	CMA655B	Texas 4 - Briscoe	97.32%
537	CMA657B	Texas 6 - Jack	99.37%
538	CMA658B	Texas 7 - Fanni	99.44%
539	CMA660B	Texas 9 - Runnels	99.03%
540	CMA661B	Texas 10 - Navarro	98.81%
541	CMA662B	Texas 11 - Cherokee	99.09%
542	CMA666B	Texas 15 - Concho	99.85%
543	CMA667B	Texas 16 - Burleson	99.67%
544	CMA668B	Texas 17 - Newton	99.63%
545	CMA669B	Texas 18 - Edwards	98.75%
546	CMA670B	Texas 19 - Atascosa	98.53%
547	CMA671B	Texas 20 - Wilson	99.73%
548	CMA672B	Texas 21 - Chambers	97.88%
549	CMA676B	Utah 4 - Beaver	96.61%
550	CMA677B	Utah 5 - Carbon	96.69%
551	CMA679B	Vermont 1 - Franklin	99.61%
552	CMA680B	Vermont 2 - Addison	99.94%
553	CMA681B	Virginia 1 - Lee	99.41%
554	CMA682B	Virginia 2 - Tazewell	98.73%
555	CMA683B	Virginia 3 - Giles	99.95%
556	CMA684B	Virginia 4 - Bedford	99.33%
557	CMA685B	Virginia 5 - Bath	99.93%
558	CMA686B	Virginia 6 - Highland	98.85%
559	CMA687B	Virginia 7 - Buckingham	99.11%
560	CMA688B	Virginia 8 - Amelia	97.67%
561	CMA689B	Virginia 9 - Greensville	96.85%
562	CMA690B	Virginia 10 - Frederick	99.07%
563	CMA691B	Virginia 11 - Madison	99.41%
564	CMA692B	Virginia 12 - Caroline	97.34%
565	CMA697B	Washington 5 - Kittitas	98.12%
566	CMA698B	Washington 6 - Pacific	96.31%
567	CMA701B	West Virginia 1 - Mason	100.00%
568	CMA702B	West Virginia 2 - Wetzel	100.00%
569	CMA703B	West Virginia 3 - Monongalia	98.55%

570	CMA706B	West Virginia 6 - Lincoln	99.90%
571	CMA707B	West Virginia 7 - Raleigh	99.31%
572	CMA708B	Wisconsin 1 - Burnett	99.97%
573	CMA709B	Wisconsin 2 - Bayfield	99.30%
574	CMA710B	Wisconsin 3 - Vilas	100.00%
575	CMA711B	Wisconsin 4 - Marinette	99.79%
576	CMA712B	Wisconsin 5 - Pierce	100.00%
577	CMA713B	Wisconsin 6 - Trempealeau	99.98%
578	CMA714B	Wisconsin 7 - Wood	99.98%
579	CMA715B	Wisconsin 8 - Vernon	99.85%
580	CMA716B	Wisconsin 9 - Columbia	99.82%
581	CMA717B	Wisconsin 10 - Door	100.00%
582	CMA723B	Puerto Rico 1 - Rincon	100.00%
583	CMA724B	Puerto Rico 2 - Adjuntas	99.36%
584	CMA725B	Puerto Rico 3 - Ciales	95.09%
585	CMA726B	Puerto Rico 4 - Aibonito	99.44%
586	CMA727B	Puerto Rico 5 - Ceiba	96.45%
587	CMA728B	Puerto Rico 6 - Vieques	100.00%
588	CMA731B	Virgin Islands 2 - St. Croix Island	100.00%
589	CMA732B	Guam	99.01%

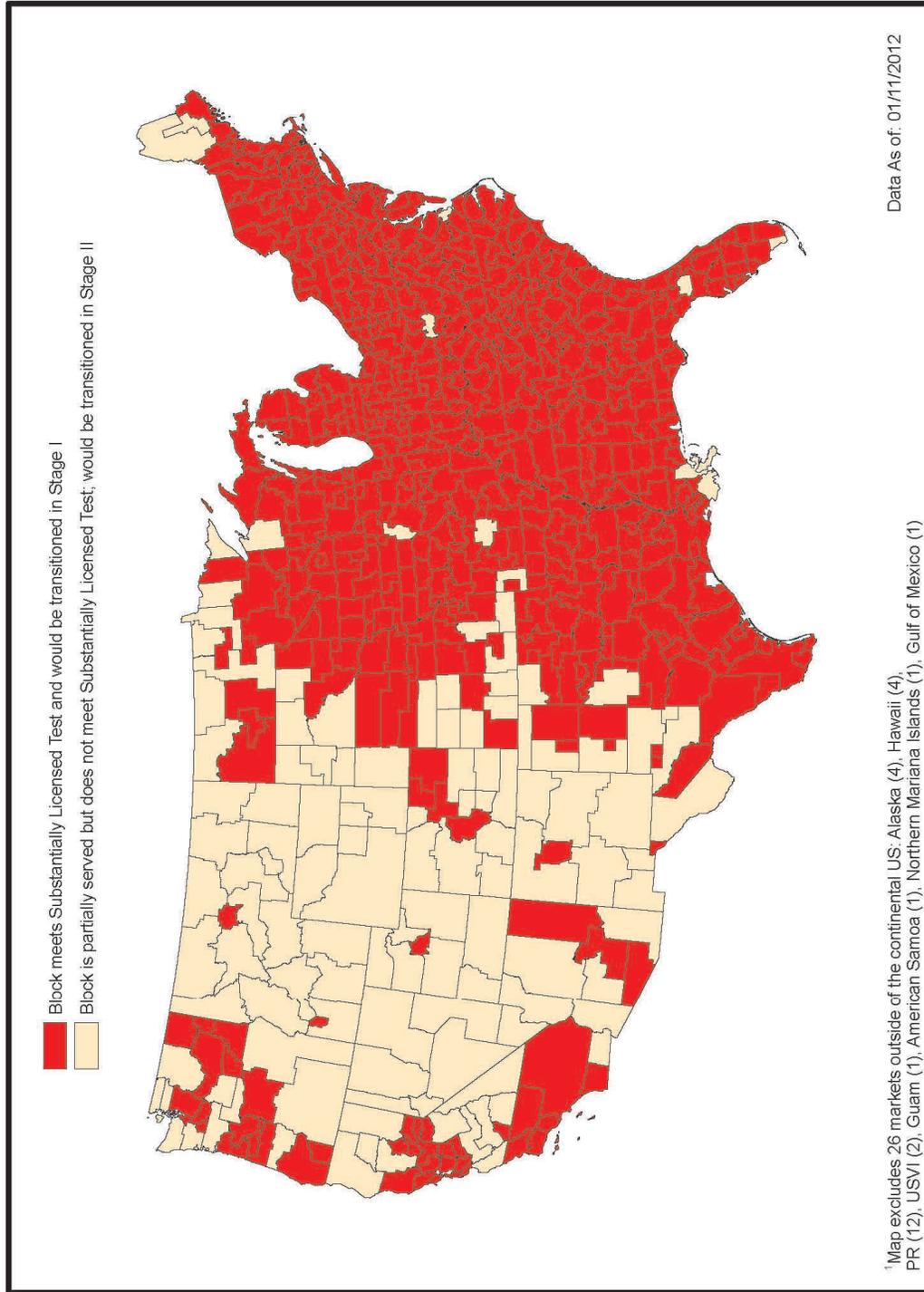
**Block B < 95% But No Contiguous 50 Sq Mi Area**

	<b>CMA</b>	<b>DESC</b>	<b>B-Block Percent Licensed Area</b>
1	CMA169B	Mayaguez, PR	84.77%
2	CMA202B	Arecibo, PR	82.90%
3	CMA204B	Aguadilla, PR	89.17%
4	CMA305B	Alton-Granite City, IL	90.44%
5	CMA729B	Puerto Rico 7 - Culebra	87.08%
6	CMA730B	Virgin Islands 1 - St.Thomas Island	86.05%
7	CMA733B	American Samoa	70.68%

APPENDIX D

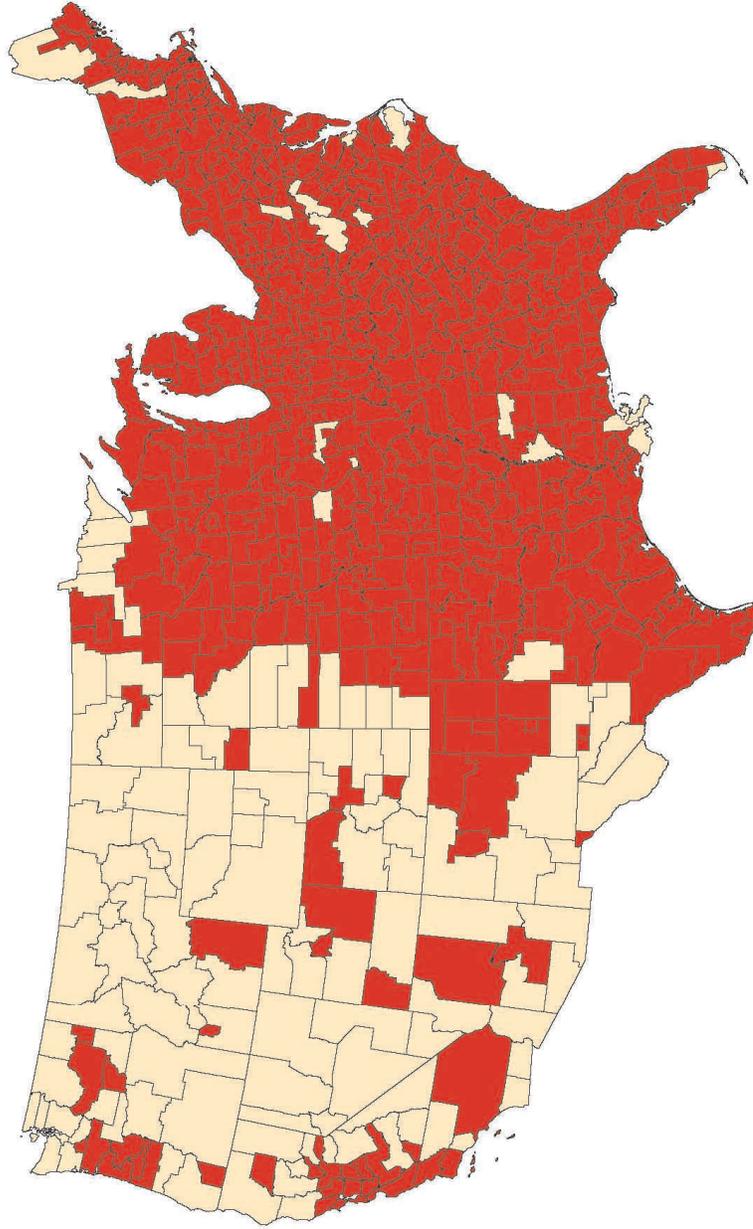
Maps Showing “Substantially Licensed” CMAs in (1) Block A, and (2) Block B  
*(CMA Blocks that meet proposed test as of 01/11/2012)*

800 MHz Cellular Markets Transition Analysis - A Block<sup>1</sup>



# 800 MHz Cellular Markets Transition Analysis - B Block<sup>1</sup>

-  Block meets Substantially Licensed Test and would be transitioned in Stage I
-  Block is partially served but does not meet Substantially Licensed Test; would be transitioned in Stage II



<sup>1</sup>Map excludes 26 markets outside of the continental US: Alaska (4), Hawaii (4), PR (12), USVI (2), Guam (1), American Samoa (1), Northern Mariana Islands (1), Gulf of Mexico (1)

Data As of: 01/11/2012

## APPENDIX E

## Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 1 and 22 as follows:

**PART 1 – PRACTICE AND PROCEDURE**

The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), and 309.

Amend Section 1.919 by removing and reserving paragraph (c).

Amend Section 1.929 by revising paragraph (b)(1), removing and reserving paragraph (b)(3), and adding a new paragraph (b)(4), to read as follows:

**§ 1.929 Classification of filings as major or minor.**

\* \* \* \* \*

(b) \* \* \*

(1) Request for an authorization or an amendment to a pending application that would expand the Cellular Geographic Service Area (CGSA) of an existing cellular system or, in the case of an amendment, as previously proposed in an application, in a CMA Block that has not been included in an auction for Cellular Overlay Authorizations under § 22.985.

\* \* \* \* \*

(3) [Reserved]

(4) Request for a Cellular Overlay Authorization. *See* § 22.985.

\* \* \* \* \*

Amend Section 1.958 by revising paragraph (d) to read as follows:

**§ 1.958 Distance computation.**

\* \* \* \* \*

(d) Calculate the number of kilometers per degree of longitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$$KPD_{lon} = 111.41513 \cos ML - 0.09455 \cos 3ML + 0.00012 \cos 5ML$$

\* \* \* \* \*

**PART 22 – PUBLIC MOBILE SERVICES**

The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309 and 332.

Amend Section 22.99 by removing the terms “Build-out transmitters,” “Extension,” “Five year build-out period,” and “Partitioned cellular market” and their definitions, and by revising the definition of “Cellular

markets,” and by revising the term “Unserved Area” and its definition, and by adding new terms and definitions, to read as follows:

**§ 22.99 Definitions.**

\* \* \* \* \*

*Cellular area-based authorization.* An authorization in the Cellular Radiotelephone Service where the licensed area is a specified fixed geographic area other than a CGSA (*e.g.*, a CMA, as in the case of a Cellular Overlay Authorization) irrespective of the locations and technical parameters of base stations (cell sites), in a CMA Block included in an auction under § 22.985.

\* \* \* \* \*

*Cellular Geographic Service Area (CGSA).* The licensed geographic area, determined by the specified locations and technical parameters of base stations (cell sites) pursuant to the procedures set forth in § 22.911, within which a cellular system is entitled to protection and adverse effects are recognized, for the purpose of determining whether a petitioner has standing, in the Cellular Radiotelephone Service.

\* \* \* \* \*

*Cellular Licensed Area.* The geographic area within which the cellular licensee is permitted to transmit, or consent to allow other cellular licensees to transmit, electromagnetic energy and signals on the assigned channel block, in order to provide cellular service.

\* \* \* \* \*

*Cellular Market Area (CMA).* A standard geographic area used by the FCC for administrative convenience in the licensing of cellular systems; a more recent term for “cellular market” (and includes Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs)). *See* § 22.909.

\* \* \* \* \*

*Cellular markets* (obsolescent). *See* definition for “Cellular Market Area (CMA)”.

\* \* \* \* \*

*Cellular Overlay Authorization (COA).* A cellular area-based authorization in a CMA Block included in an auction under § 22.985, where the cellular licensed area is the geographic area within the CMA boundary (Channel Block A or B), subject to the requirement to protect incumbent licensees’ operations from harmful interference under applicable rules.

\* \* \* \* \*

*Cellular Overlay Licensee.* The holder of a Cellular Overlay Authorization.

\* \* \* \* \*

*Cellular site-based authorization.* An authorization in the Cellular Radiotelephone Service where the Cellular Licensed Area is determined by the specified locations and technical parameters of base stations (cell sites), pursuant to the procedures set forth in § 22.911.

\* \* \* \* \*

*CMA Block.* In the Cellular Radiotelephone Service, a CMA considered in regard to a specified channel block, *i.e.*, either Channel Block A or Channel Block B (*see* § 22.905).

\* \* \* \* \*

*Substantially Licensed CMA Block.* A CMA Block (A or B) where at least 95% of the total land area is Cellular Geographic Service Area or which contains no contiguous parcel of Unserved Area larger than 130 square kilometers (50 square miles).

\* \* \* \* \*

*Unserved Area.* With regard to a channel block allocated for assignment in the Cellular Radiotelephone Service: Geographic area in the District of Columbia, or any State, Territory or Possession of the United States of America that is not within any Cellular Geographic Service Area of any cellular system authorized to transmit on that channel block. \* \* \*

Amend Section 22.131 by revising paragraphs (c)(3)(iii) and (d)(2)(iv), to read as follows:

**§ 22.131 Procedures for mutually exclusive applications.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(iii) If all of the mutually exclusive applications filed on the earliest filing date are applications for initial authorization, a 30-day notice and cut-off filing group is used.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iv) Any application to expand the CGSA of a cellular system (as defined in § 22.911) in a CMA Block that has not been included in an auction under § 22.985.

\* \* \* \* \*

Amend Section 22.165 by revising paragraph (e) to read as follows:

**§ 22.165 Additional transmitters for existing systems.**

\* \* \* \* \*

(e) *Cellular Radiotelephone Service.*

(1) In a CMA Block that has not been included in an auction under § 22.985, the service area boundaries of the additional transmitters, as calculated by the method set forth in section 22.911(a), must remain within the CGSA; the licensee must seek prior approval (using FCC Form 601) regarding any transmitters to be added under this section that would cause a change in the CGSA boundary. *See* § 22.953.

(2) With regard to an incumbent's CGSA in a CMA Block that has been included in an auction under § 22.985, the service area boundaries of the additional transmitters, as calculated by the method set forth in section 22.911(a), must remain within the incumbent's CGSA.

(3) A Cellular Overlay Licensee is permitted to expand into any Unserved Area within its licensed CMA Block so long as it protects existing cellular licensees from harmful interference.

\* \* \* \* \*

Remove Section 22.228.

Revise Section 22.901 in its entirety to read as follows:

**§ 22.901 Cellular service requirements and limitations.**

Each cellular system must provide either mobile service, fixed service, or a combination of mobile and fixed service, subject to the requirements, limitations and exceptions in this section. Mobile service provided may be of any type, including two-way radiotelephone, dispatch, one-way or two-way paging, and personal communications services (as defined in part 24 of this chapter). Fixed service is considered to be primary service, as is mobile service. When both mobile and fixed services are provided, they are considered to be co-primary services. In providing cellular service, each cellular system may incorporate any technology that meets all applicable technical requirements in this part.

Revise Section 22.909 in its entirety, to read as follows:

**§ 22.909 Cellular market areas (CMAs).**

Cellular market areas (CMAs) are standard geographic areas used by the FCC for administrative convenience in the licensing of cellular systems. CMAs comprise Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). All CMAs and the counties they comprise are listed in: “Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties,” *Public Notice*, Report No. CL-92-40, 6 FCC Rcd 742 (1992).

(a) *MSAs*. Metropolitan Statistical Areas are 306 areas, including New England County Metropolitan Areas and the Gulf of Mexico Service Area (water area of the Gulf of Mexico, border is the coastline), defined by the Office of Management and Budget, as modified by the FCC.

(b) *RSAs*. Rural Service Areas are 428 areas, other than MSAs, established by the FCC.

Remove Section 22.912.

Remove Section 22.929. *See* § 22.953.

Revise Section 22.946 in its entirety to read as follows:

**§ 22.946 Construction period for cellular systems under site-based authorizations.**

The construction period applicable to specific new or modified cellular facilities for which a site-based authorization is granted is one year, beginning on the date the authorization is granted. To satisfy this requirement, a cellular system must be providing service to mobile stations operated by subscribers and roamers. The licensee must notify the FCC (FCC Form 601) after the requirements of this section are met. *See* § 1.946 of this chapter. GMEZ cellular systems are not subject to construction period requirements. *See* § 22.950.

Revise Section 22.947 in its entirety to read as follows:

**§ 22.947 Build-out period for CMA Block 672A (Chambers, TX).**

This rule section applies only to cellular systems operating on Channel Block A in CMA 672 (Chambers, Texas).

(a) A licensee that holds the Cellular Overlay Authorization for CMA Block 672A (Chambers, Texas) initially awarded via auction (*i.e.*, the CMA Block for which cellular service was authorized solely under interim operating authority prior to the Stage I auction described in § 22.985) must be providing signal coverage and offering service over at least 35% of the geographic area of the CMA Block within four years of the grant of the authorization, and over at least 70% of the geographic area of its license authorization by the end of the license term. In applying this geographic benchmark, the licensee is to count total land area.

(b) The licensee must notify the FCC (FCC Form 601) after the requirements of this section are met and must include with its notification(s) GIS map files and other supporting documents showing compliance with the construction requirement. *See* § 1.946 of this chapter. *See also* § 22.953.

(c) Failure to meet the requirements in this section by the deadline will result in automatic termination of the authorization and such licensee will be ineligible to regain it.

Revise Section 22.948 in its entirety to read as follows:

**§ 22.948 Geographic partitioning and spectrum disaggregation.**

Cellular licensees may apply to partition their cellular licensed area or to disaggregate their licensed spectrum at any time following the grant of their authorization(s). Parties seeking approval for partitioning and disaggregation shall request from the FCC an authorization for partial assignment of a license pursuant to § 1.948 of this chapter. *See also* paragraph (f) of this § 22.948.

(a) *Partitioning.* Applicants must file FCC Form 603 pursuant to § 1.948 of this chapter. The filing must include the attachments required under § 22.953, including GIS map files and a reduced-size PDF map, for both the assignor and the assignee.

(1) Within a CMA Block that has not yet been included in an auction under § 22.985, partitioning of a CGSA must be on a site-by-site basis; *i.e.*, the partitioned area must comprise only the area resulting from one or more cell sites pursuant to § 22.911. At least one entire cell site must be partitioned. If all cell sites are assigned, it is not partitioning, but rather a full assignment of authorization.

(2) Partitioning of the licensed area of a cellular area-based authorization (including, *e.g.*, the licensed area of a Cellular Overlay Authorization) to a licensee in a CMA Block that has not yet been included in an auction under § 22.985 must be on a site-by-site basis; *i.e.*, the partitioned area must comprise CGSA resulting from one or more cell sites pursuant to § 22.911.

(3) Partitioning of the licensed area of a cellular area-based authorization within the same CMA Block that has been included in an auction under § 22.985, or to a licensee in another CMA Block that has also been included in such an auction (including, *e.g.*, the partitioning of a Cellular Overlay Authorization area by one Cellular Overlay Licensee to another Cellular Overlay Licensee), may involve any proportion of division. If all of the licensed area is assigned, it is not partitioning, but rather a full assignment of authorization.

(b) *Disaggregation.* Spectrum may be disaggregated in any amount.

(c) *Combined partitioning and disaggregation.* The FCC will consider requests for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(d) *Field strength limit.* For purposes of partitioning and disaggregation, cellular systems must be designed so as not to exceed a median field strength level of 40 dB $\mu$ V/m at or beyond the boundary of the Cellular Licensed Area, unless all affected adjacent service area licensees agree to a different signal level. *See* § 22.983.

(e) *License term.* The license term for a partitioned license area and for disaggregated spectrum will be the remainder of the original license term.

(f) *Spectrum Leasing.* Cellular spectrum leasing is subject to the provisions of paragraphs (a)(1) through (a)(3), (b) and (c) of this § 22.948, except that applicants must file FCC Form 608 (not FCC Form 603), as well as all applicable provisions of subpart X of part 1 of this chapter.

Revise Section 22.949 in its entirety to read as follows:

**§ 22.949 Unserved Area licensing process for site-based systems.**

This section sets forth the process for licensing Unserved Area in CMA Blocks not yet included in an auction pursuant to § 22.985. The licensing process in this § 22.949 allows eligible parties to apply for any Unserved Area that remains in such CMA Blocks.

(a) The Unserved Area licensing process described in this section is on-going and applications may be filed at any time, until the CMA Block is included in an auction pursuant to § 22.985.

(b) There is no limit to the number of Unserved Area applications that may be granted on each CMA Channel Block that remains subject to the procedures of this section. Consequently, such Unserved Area applications are mutually exclusive only if the proposed CGSAs would overlap. Mutually exclusive applications are processed using the general procedures in § 22.131. *See also* § 22.961.

(c) Unserved Area applications under this section may propose a CGSA covering more than one CMA. Each such Unserved Area application must request authorization for only one CGSA.

(d) Settlements among some, but not all, applicants with mutually exclusive applications for Unserved Area (partial settlements) under this section are prohibited. Settlements among all applicants with mutually exclusive applications under this section (full settlements) are allowed and must be filed no later than the date that the FCC Form 175 (short-form) is filed.

Amend Section 22.950 by revising paragraphs (c) and (d), to read as follows:

**§ 22.950 Provision of service in the Gulf of Mexico Service Area (GMSA).**

\* \* \* \* \*

(c) *Gulf of Mexico Exclusive Zone (GMEZ)*. GMEZ licensees have an exclusive right to provide cellular service in the GMEZ, and may add, modify, or remove facilities anywhere within the GMEZ without prior FCC approval. There is no Unserved Area licensing procedure for the GMEZ.

(d) *Gulf of Mexico Coastal Zone (GMCZ)*. The GMCZ is subject to the Unserved Area licensing procedure set forth in § 22.949.

Amend Section 22.953 by revising the introductory text, paragraph (a), paragraphs (a)(1) through (a)(3), and (b), and by removing and reserving paragraphs (a)(4) through (a)(10), and by adding a new paragraph (a)(11), and by reserving paragraph (c), to read as follows:

**§ 22.953 Content and form of applications for cellular authorizations.**

Applications for authority to operate a new cellular system or to modify an existing cellular system must comply with the specifications in this section.

(a) *New Systems*. In addition to information required by subparts B and D of this part and by FCC Form 601, applications for a site-based authorization to operate a cellular system must comply with all applicable requirements set forth in part 1 of this chapter, including the requirements specified in §§ 1.913, 1.923, and 1.924, and must include the information listed below, in numbered exhibits. Geographical coordinates must be correct to  $\pm 1$  second using the NAD 83 datum.

(1) *Exhibit I—Geographic Information System (GIS) map files*. The FCC will specify the file format required for the Geographic Information System (GIS) map files that are to be submitted electronically via the Universal Licensing System (ULS). In addition to GIS map files submitted electronically, the FCC reserves the right to request a full-size paper map from the applicant. The scale of the full-size paper map must be 1:500,000, regardless of whether any different scale is used for the reduced-size PDF map required in Exhibit II. In addition to the information required for the GIS map files, the paper map, if requested, must include all the information required for the reduced-size PDF map (*see* paragraph (a)(2) of this section).

(2) *Exhibit II—Reduced-size PDF map.* This map must be 8½ × 11 inches (if possible, a proportional reduction of a 1:500,000 scale map). The map must have a legend, a distance scale and correctly labeled latitude and longitude lines. The map must be clear and legible. The map must accurately show the cell sites (transmitting antenna locations), the service area boundaries of additional and modified cell sites, the entire CGSA, extensions of the composite service area beyond the CGSA (*see* § 22.911), and the relevant portions of the CMA boundary.

(3) *Exhibit III—Antenna Information.* In addition, upon request by an applicant, licensee, or the FCC, a cellular applicant or licensee of whom the request is made shall furnish the antenna type, model, the name of the antenna manufacturer, antenna gain in the maximum lobe, the beam width of the maximum lobe of the antenna, a polar plot of the horizontal gain pattern of the antenna, antenna height to tip above ground level, the height of the center of radiation of the antenna above the average terrain, the height of the antenna center of radiation above the average elevation of the terrain along each of the 8 cardinal radials, the maximum effective radiated power, and the electric field polarization of the wave emitted by the antenna when installed as proposed to the requesting party within ten (10) days of receiving written notification.

(4)-(10) [Reserved]

(11) *Additional Information.* The FCC may request information not specified in paragraphs (a)(1) through (a)(3) as necessary to process an application.

(b) *Existing systems: major and minor modifications.* Licensees making major modifications pursuant to § 1.929(a) and (b) of this chapter, and licensees making minor modifications pursuant to § 1.929(k) of this chapter, must file FCC Form 601 and comply with the requirements of paragraph (a) of this § 22.953.

(c) [Reserved]

Remove Section 22.960.

Remove the designation of Sections 22.961-22.967 as “[Reserved]”.

Add new Section 22.961 to read as follows:

**§ 22.961 Cellular licenses subject to competitive bidding.**

The following mutually exclusive initial applications for cellular licensed area authorizations are subject to competitive bidding, and unless otherwise provided by this subpart, the general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply:

- (a) Mutually exclusive initial applications for cellular site-based authorizations; and
- (b) Mutually exclusive initial applications for Cellular Overlay Authorizations.

Remove Section 22.969.

Add a new Section 22.983 to part 22 to read as follows:

**§ 22.983 Field strength limit.**

The predicted or measured median field strength at any location on or beyond the boundary of any Cellular Licensed Area must not exceed 40 dBµV/m, unless the adjacent cellular service licensee(s) on the same Channel Block agree(s) to a different field strength. This value applies to both the initially authorized areas and to partitioned areas.

Add a new Section 22.985 to part 22 to read as follows:

**§ 22.985 Geographic area licensing via auctions.**

The licensing procedures in this § 22.985 do not apply to any CMA Block in the GMSA (*see* § 22.950).

(a) *Determination of licensing status of CMA Blocks.* The FCC will determine whether each CMA Block is Substantially Licensed. A CMA Block will be deemed Substantially Licensed if, as of a cut-off date established by the FCC, either:

(1) at least 95 % of the total land area in the CMA Block is already licensed as CGSA; or

(2) the CMA Block contains no contiguous parcel of Unserved Area that is larger than 130 square kilometers (50 square miles).

(b) *Stage I Auction.* Any auction to resolve mutually exclusive applications filed with respect to CMA Blocks that are included in Stage I for the assignment of Cellular Overlay Authorizations shall be conducted pursuant to the procedures set forth in part 1, subpart Q of this chapter. Any eligible entity may bid in the Stage I auction. A CMA Block is eligible to be included in the Stage I auction if either:

(1) the CMA Block is determined by the FCC to be Substantially Licensed; or,

(2) the CMA Block has cellular service that has been authorized solely under interim operating authority (*i.e.*, for which no license has ever been issued).

(c) *Stage II Auction.* Any auction to resolve mutually exclusive applications filed with respect to CMA Blocks that are included in Stage II for the assignment of Cellular Overlay Authorizations in such Blocks shall be conducted pursuant to the procedures set forth in part 1, subpart Q of this chapter. Any eligible entity may bid in the Stage II auction.

Add a new Section 22.986 to part 22 to read as follows:

**§ 22.986. Designated Entities.**

(a) *Eligibility for small business provisions in the Cellular Radiotelephone Service.*

(1) A very small business is an entity that, together with its controlling interests and affiliates, has average annual gross revenues not exceeding \$3 million for the preceding three years.

(2) A small business is an entity that, together with its controlling interests and affiliates, has average annual gross revenues not exceeding \$15 million for the preceding three years.

(3) An entrepreneur is an entity that, together with its controlling interests and affiliates, has average annual gross revenues not exceeding \$40 million for the preceding three years.

(b) *Bidding credits in the Cellular Radiotelephone Service.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

## APPENDIX F

## List of Additional “Covered Blocks” Subject to Certain Interim Filing Restrictions

Data as of 1/11/2012

*(See also Appendix C, Listing Blocks that meet proposed “Substantially Licensed” Test, which are also “Covered Blocks” for purposes of the Interim Filing Restrictions)*

## A BLOCK

	CMA	DESC	A-Block Percent Licensed Area
1	CMA029A	New Orleans, LA	94.36%
2	CMA093A	Las Vegas, NV	90.59%
3	CMA117A	Colorado Springs, CO	92.00%
4	CMA126A	Salinas-Seaside-Monterey, CA	94.47%
5	CMA135A	Eugene-Springfield, OR	94.36%
6	CMA169A	Mayaguez, PR	90.46%
7	CMA224A	Bangor, ME	91.74%
8	CMA241A	Pueblo, CO	92.11%
9	CMA245A	Ocala, FL	92.71%
10	CMA254A	Redding, CA	93.85%
11	CMA268A	Billings, MT	90.41%
12	CMA338A	California 3 - Alpine	91.16%
13	CMA342A	California 7 - Imperial	92.24%
14	CMA356A	Colorado 9 - Costilla	91.99%
15	CMA415A	Iowa 4 - Muscatine	93.90%
16	CMA428A	Kansas 1 - Cheyenne	94.32%
17	CMA429A	Kansas 2 - Norton	94.04%
18	CMA433A	Kansas 6 - Wallace	90.77%
19	CMA436A	Kansas 9 - Morris	94.65%
20	CMA439A	Kansas 12 - Hodgeman	91.88%
21	CMA442A	Kansas 15 - Elk	92.76%
22	CMA482A	Minnesota 1 - Kittson	92.61%
23	CMA484A	Minnesota 3 - Koochiching	91.54%
24	CMA515A	Missouri 12 - Maries	94.93%
25	CMA517A	Missouri 14 - Barton	94.65%
26	CMA528A	Montana 6 - Deer Lodge	94.75%
27	CMA545A	Nevada 3 - Storey	91.43%
28	CMA580A	North Dakota 1 - Divide	94.22%
29	CMA581A	North Dakota 2 - Bottineau	94.45%
30	CMA582A	North Dakota 3 - Barnes	94.13%
31	CMA597A	Oklahoma 2 - Harper	94.91%
32	CMA611A	Oregon 6 - Crook	94.21%
33	CMA638A	South Dakota 5 - Custer	94.92%
34	CMA639A	South Dakota 6 - Haakon	93.64%

35	CMA652A	Texas 1 - Dallam	90.36%
36	CMA654A	Texas 3 - Parmer	94.22%
37	CMA656A	Texas 5 - Hardeman	93.95%
38	CMA694A	Washington 2 - Okanogan	92.80%
39	CMA696A	Washington 4 - Grays Harbor	92.14%
40	CMA699A	Washington 7 - Skamania	93.68%
41	CMA709A	Wisconsin 2 - Bayfield	92.77%

**B BLOCK**

	<b>CMA</b>	<b>DESC</b>	<b>B-Block Percent Licensed Area</b>
1	CMA018B	San Diego, CA	94.63%
2	CMA073B	Oxnard-Simi Valley-Ventura, CA	92.05%
3	CMA082B	Tacoma, WA	93.67%
4	CMA091B	San Juan-Caguas, PR	91.41%
5	CMA093B	Las Vegas, NV	92.69%
6	CMA097B	Bakersfield, CA	91.19%
7	CMA104B	Newport News-Hampton, VA	93.17%
8	CMA117B	Colorado Springs, CO	91.95%
9	CMA141B	Duluth, MN-WI	93.55%
10	CMA212B	Bremerton, WA	94.70%
11	CMA215B	Chico	92.19%
12	CMA221B	Fargo-Moorehead, ND-MN	92.08%
13	CMA243B	Greeley, CO	91.31%
14	CMA289B	Rapid City, SD	90.01%
15	CMA305B	Alton-Granite City, IL	90.44%
16	CMA323B	Arizona 6 - Graham	91.47%
17	CMA336B	California 1 - Del Norte	92.38%
18	CMA338B	California 3 - Alpine	92.85%
19	CMA344B	California 9 - Mendocino	91.52%
20	CMA345B	California 10 - Sierra	90.28%
21	CMA346B	California 11 - El Dorado	94.29%
22	CMA349B	Colorado 2 - Logan	92.94%
23	CMA350B	Colorado 3 - Garfield	90.70%
24	CMA351B	Colorado 4 - Park	94.56%
25	CMA398B	Illinois 5 - Mason	91.10%
26	CMA428B	Kansas 1 - Cheyenne	94.55%
27	CMA433B	Kansas 6 - Wallace	90.43%
28	CMA506B	Missouri 3 - Schuyler	93.78%
29	CMA529B	Montana 7 - Fergus	90.78%
30	CMA536B	Nebraska 4 - Grant	94.53%
31	CMA540B	Nebraska 8 - Chase	91.85%

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32	CMA578B	North Carolina 14 - Pitt	93.07%
33	CMA610B	Oregon 5 - Coos	94.62%
34	CMA634B	South Dakota 1 - Harding	94.31%
35	CMA656B	Texas 5 - Hardeman	94.78%
36	CMA659B	Texas 8 - Gaines	93.42%
37	CMA675B	Utah 3 - Juab	93.37%
38	CMA678B	Utah 6 - Piute	93.17%
39	CMA696B	Washington 4 - Grays Harbor	92.10%

## APPENDIX G

## Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking (NPRM)*. Written public comments are requested on this IRFA. Comments must be filed by the same dates as listed on the first page of the *NPRM* and must have a separate and distinct heading designating them as responses to this IRFA. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the *Federal Register*.<sup>3</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. In the *NPRM*, the Commission proposes a transition for the 800 MHz Cellular (Cellular) Service from site-based licensing to geographic-area licensing. The proposed transition would occur in two stages, via Commission auction. We believe that the current site-based paradigm is outdated and hinders carriers from being able to respond quickly to changing market conditions and consumer demands. We also believe it is contrary to the public interest to maintain a burdensome system to preserve extremely limited Unserved Area licensing opportunities. The Commission's early key goal of creating a seamless and integrated nationwide Cellular Service has been achieved throughout the vast majority of our nation. The Commission has long held that market-based licensing regimes are simpler to administer for all parties concerned. The proposed transition would reduce administrative burdens for licensees as well as Commission staff. The proposed transition is consistent with the Commission's ongoing regulatory reform agenda and also supports the Commission's Data Innovation Initiative, launched in June 2010, by reducing information collection burdens under the Paperwork Reduction Act. We anticipate that, with the proposed additional flexibility provided to licensees, the regulatory and compliance costs associated with service provision would be reduced. These changes would also put Cellular licensees more on par with other wireless telecommunications licensees and further the Commission's goal of rule harmonization for the different wireless services.

3. As detailed in Section III, we propose a transition in two stages. Consistent with precedent, we would accept competing applications for Overlay Licenses, and resolve them via auction, for each CMA Block.<sup>4</sup> In Stage I, the Commission would offer Overlay Licenses for all CMA Blocks that are "Substantially Licensed" or authorized solely under interim operating authority (IOA). We propose the following test to determine if a CMA Block is Substantially Licensed: *either* (1) at least 95% of the total land area in the CMA Block is licensed; *or* (2) there is no parcel within the Block at least 50 contiguous square miles in size that is not licensed. We believe it is appropriate to include *total* land area without exclusions in calculating the licensed area. If a CMA Block meets either benchmark as of an established

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See 5 U.S.C. § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> As explained in the *NPRM*, each CMA has two channel Blocks: A and B.

date, it would be deemed Substantially Licensed and included in the Stage I transition. We propose, however, that the Gulf of Mexico Service Area (GMSA) be exempt from the transition because it is governed by a specialized licensing regime.

4. All CMA Blocks that do not meet the Substantially Licensed test would remain under site-based licensing until Stage II is triggered. In Stage II, the Commission proposes to offer Overlay Licenses for all remaining CMA Blocks (except the GMSA), regardless of the percentage of total land area licensed, and terminate site-based licensing. In the *NPRM*, we propose to continue the site-based model for seven years before Stage II is triggered, and we seek comment on whether this is the appropriate period of time. We believe that the public interest is best served by preserving the current scheme's direct spectrum access through site-based applications in Blocks that are not yet Substantially Licensed, primarily rural areas out west, for a defined period of time. This will allow all interested parties to have the opportunity to identify the specific areas they wish to serve as demographics change or service otherwise becomes economically feasible in such markets. Moreover, site-based licensing in such Blocks will ensure build-out within one year of authorization of such areas.

5. Overlay Licensees would be obligated to protect incumbent licensees' operations from harmful interference. That obligation would cease with respect to any incumbent's licensed area relinquished for any reason in the future (*e.g.*, through failure to renew the license). Such relinquished areas would not be returned to the Commission's auction inventory but, rather, could be served immediately by the Overlay Licensee on a primary basis without being subject to competitive bidding.

6. The Chambers, Texas Block-A market ("Chambers") is the only CMA Block for which a license has never been issued; the market is served solely under IOA. We propose to include Chambers in the Stage I auction and award an Overlay License consistent with the process described for the Substantially Licensed Blocks, but subject to specific build-out requirements for the Chambers Overlay Licensee, as explained in Section III.A.2. We believe this is the most efficient and effective way to resolve the continued lack of a licensee and help bring additional advanced service to this Texas market.

7. We also propose that all Cellular licensees, regardless of Block, should be subject to a field strength limit at their respective license boundaries, similar to licensees in other flexible services such as PCS, certain AWS, etc. The *NPRM* proposes a median field strength limit of 40 dB $\mu$ V/m for the Cellular Service. We also propose certain other revisions in individual Cellular rules to reflect the proposed transition, and to delete provisions that we deem obsolete or unnecessary going forward, including certain application requirements and other filings, and to streamline certain other provisions. The proposed rules are set forth in Appendix E and we encourage all interested parties to review them carefully. We seek comment on how the proposals will impact the amount of information available to regulated entities and the public.

## **B. Legal Basis**

8. The proposed action is taken under Sections 1, 2, 4(i), 301, 303, 307, 309, 319, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 301, 303, 307, 309, 319, 324, and 332.

## **C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply**

9. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>5</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>7</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>8</sup>

10. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards.<sup>9</sup> First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.<sup>10</sup> In addition, a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>11</sup> Nationwide, as of 2007, there were approximately 1,621,315 small organizations.<sup>12</sup> Finally, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>13</sup> Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States.<sup>14</sup> We estimate that, of this total, as many as 88,506 entities may qualify as “small governmental jurisdictions.”<sup>15</sup> Thus, we estimate that most governmental jurisdictions are

<sup>5</sup> 5 U.S.C. § 603(b)(3).

<sup>6</sup> 5 U.S.C. § 601(6).

<sup>7</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” *Id.*

<sup>8</sup> Small Business Act, 15 U.S.C. § 632 (1996).

<sup>9</sup> See 5 U.S.C. §§ 601(3)–(6).

<sup>10</sup> See SBA, Office of Advocacy, “Frequently Asked Questions,” [web.sba.gov/faqs](http://web.sba.gov/faqs) (last visited May 6, 2011; figures are from 2009).

<sup>11</sup> 5 U.S.C. § 601(4).

<sup>12</sup> INDEPENDENT SECTOR, *THE NEW NONPROFIT ALMANAC & DESK REFERENCE* (2010).

<sup>13</sup> 5 U.S.C. § 601(5).

<sup>14</sup> U.S. CENSUS BUREAU, *STATISTICAL ABSTRACT OF THE UNITED STATES: 2011*, Table 427 (2007).

<sup>15</sup>The 2007 U.S. Census data for small governmental organizations indicate that there were 89,476 “Local Governments” in 2007. (U.S. CENSUS BUREAU, *STATISTICAL ABSTRACT OF THE UNITED STATES 2011*, Table 428). The criterion by which the size of such local governments is determined to be small is a population of 50,000. However, because the Census Bureau does not specifically apply that criterion, it cannot be determined with precision how many of such local governmental organizations are small. Nonetheless, the inference seems reasonable that a substantial number of these governmental organizations has a population of less than 50,000. To look at Table 428 in conjunction with a related set of data in Table 429 in the Census’s Statistical Abstract of the U.S., that inference is further supported by the fact that in both Tables, many entities that may well be small are included in the 89,476 local governmental organizations, e.g., county, municipal, township and town, school district and special district entities. Measured by a criterion of a population of 50,000, many specific sub-entities in this category seem more likely than larger county-level governmental organizations to have small populations. (continued....)

small.

11. *Wireless Telecommunications Carriers (except Satellite)*. The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers. The size standard for that category is that a business is small if it has 1,500 or fewer employees.<sup>16</sup> Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had employment of 1,000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action.<sup>17</sup> The Commission's own data—available on its Spectrum Dashboard—indicate that, as of February 9, 2012, there are 347 Cellular licensees that will be affected by this *NPRM*.<sup>18</sup> The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities.

#### **D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

12. In the *NPRM*, the Commission seeks to reduce filing burdens and recordkeeping for all Cellular licensees by changing from site-based to geographic area licensing. We propose that, in the Blocks for which an Overlay License is offered, the CGSA boundaries of incumbents that do not become Overlay Licensees would be permanently fixed insofar as such incumbents would not be permitted to expand their CGSAs, except through contractual arrangements with other licensees. They would, however, be free to modify their systems in response to market demands without Commission filings in most cases, so long as the CGSA would not be changed as a result, and subject to any obligations we impose on all Cellular licensees.

13. Under our proposal, in most cases Overlay Licensees would be free as well to modify their systems without Commission filings, thereby minimizing their regulatory burdens. In addition, while Overlay Licensees would be obligated to protect incumbent licensees' operations from harmful interference, that obligation would cease with respect to any incumbent's licensed area (CGSA) or portion thereof that is relinquished for any reason in the future (*e.g.*, through failure to renew the license). Such relinquished areas would not be returned to the Commission's auction inventory but, rather, could be served by the Overlay Licensee on a primary basis immediately, without being subject to competitive bidding.

14. Once an Overlay License is granted via auction for Chambers, we propose not to subject the Licensee to the existing rules concerning the five-year build-out phase or the Phase I or Phase II license application processes that have been applicable to other CMA Blocks. Instead, we propose that the

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Accordingly, of the 89,746 small governmental organizations identified in the 2007 Census, the Commission estimates that a substantial majority are small.

<sup>16</sup> 13 C.F.R. § 121.201, NAICS code 517110.

<sup>17</sup> See [http://factfinder.census.gov/servlet/IBQTable?\\_bm=y&-fds\\_name=EC0700A1&-geo\\_id=&-skip=600&-ds\\_name=EC0751SSSZ5&-lang=en](http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-skip=600&-ds_name=EC0751SSSZ5&-lang=en).

<sup>18</sup> See <http://reboot.fcc.gov/reform/systems/spectrum-dashboard>. For the purposes of this IRFA, consistent with Commission practice for wireless services, the Commission estimates the number of licensees based on the number of unique FCC Registration Numbers (FRNs).

Chambers Overlay Licensee be required to demonstrate that it has built out a Cellular system that is providing signal coverage and offering service over at least 35% of the geographic area of its license authorization within four years of initial license grant and at least 70% of the geographic area of its license authorization by the end of the license term, with failure to meet these build-out deadlines resulting in automatic forfeiture of the license. We further propose that, after the build-out requirements have been met, the Chambers Overlay Licensee should be subject to the same rules and obligations that we apply to the other Overlay Licenses issued in Stage I of the transition. For example, we seek comment in the *NPRM* on whether Overlay Licensees should be subject to performance requirements.

15. The Commission also proposes that all Cellular licensees be subject to a field strength limit at their respective license boundaries and that a median field strength limit of 40 dB $\mu$ V/m is appropriate for the Cellular Band. Coordination among co-channel licensees regarding channel usage will remain essential in actually preventing harmful interference. We therefore propose to retain the current Cellular Service rule mandating coordination in certain circumstances (section 22.907), but we also propose to allow Cellular licensees to negotiate contractual agreements specifying different field strength limits. This will provide licensees with additional flexibility in their operations.

16. In this *NPRM*, we also propose various other changes in parts 1 and 22 of the Commission's rules that apply to Cellular Service licensees. For example, we propose to streamline the application requirements for site-based Unserved Area applications, notably section 22.953 (deleting certain technical data requirements that, going forward, we believe will no longer be routinely necessary). We also propose to delete obsolete and outdated provisions, such as those requiring certifications associated with cessation of analog service, often referred to as the "analog sunset." Here too, our proposals are consistent with the Commission's regulatory reform agenda and its Data Innovation Initiative. The proposed rules are set forth in Appendix E and we encourage all interested parties to review them carefully and comment on them with specificity.

#### **E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

17. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof for small entities.<sup>19</sup>

18. The *NPRM* discusses several alternatives to the proposed two-stage transition. These include, for example, alternatives that would entail transition via auction in more than two stages as well as possible exemption for certain extremely rural markets such as Alaskan markets and others with special build-out challenges. The *NPRM* also discusses proposals put forth by industry stakeholders thus far in this proceeding, including an approach that would not entail competitive bidding. The *NPRM* specifically invites interested parties to comment on these various alternatives and to suggest other alternative proposals. At this time, the Commission has not excluded any alternative proposal from its consideration, but it would do so in this proceeding if the record indicates that a particular proposal would have a

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<sup>19</sup> 5 U.S.C. § 603(c).

significant and unjustifiable adverse economic impact on small entities.

19. The Commission believes that the proposed transition to a geographic-area licensing system for the Cellular Service in two stages via auction will benefit all Cellular incumbents and entrants, regardless of size. The proposed scheme would put Cellular licensees on a regulatory par with other wireless licensees that hold geographic area licenses, such as PCS and certain AWS licensees, thus easing the regulatory burden of compliance by eliminating discrepancies in competing services. The Commission has historically valued harmonization in the rules for wireless licensees by eliminating burdensome requirements, as appropriate. Furthermore, we anticipate that the modernized licensing scheme will encourage Cellular licensees to invest in and deploy ever more advanced technologies as they evolve. By reducing the paperwork burden on Cellular providers, we would also expect their resulting lower costs to have some positive effect on the rates paid by subscriber groups, including small businesses that rely on Cellular service.

**F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules**

20. None.

**STATEMENT OF  
CHAIRMAN JULIUS GENACHOWSKI**

Re: *Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission's Rules with Regard to Relocation of Part 24 to Part 2; Interim Restrictions and Procedures for Cellular Service Applications*, WT Docket No. 12-40, Notice of Proposed Rulemaking and Order (FCC 12-20).

Today we take another important step in our work to reform the FCC, reduce unnecessary administrative burdens, and increase regulatory parity. We are proposing to migrate the 800 MHz cellular spectrum from a site-based to a geographic-based licensing system, which will reduce licensing and filing burdens relating to use of the spectrum.

The 800 MHz Cellular Radiotelephone Service is the band that spawned the mobile revolution roughly 30 years ago, and its unique site-by-site licensing model helped bring mobile service to all Americans, even in remote rural areas. But the original licensing model has outlived its original utility. It's time to transition from the old site-based licensing model to a more flexible geographically-licensed model.

The new licensing model for 800 MHz will be the same as our more recent, flexibly licensed bands, such as PCS, AWS, and the 700 MHz band.

We'll implement this with a two-stage transition using auctions of "overlay licenses" to ensure efficiency and convey more flexible rights to license holders.

The NPRM also proposes several changes to the Cellular rules to update or eliminate outdated technical provisions and data collection requirements to reduce administrative burdens on licensees. This item proposes to eliminate seven unnecessary data collections, which, if adopted, will bring to 32 the number of unnecessary data collections we have eliminated.

The Commission's actions to end these data collections – and eliminate more than 210 regulations – are consistent with two Executive Orders that called on federal agencies to review rules and regulations and ensure they are cost-effective and don't place unnecessary burdens on industry.

I'm pleased to thank CTIA for its petition, which spurred this rulemaking, as well as NTCA, and RTG – the Rural Telecommunications Group – for their comments and insight. We look forward to comments from all interested parties to ensure the transition is a success.

Thank you to the staff of the Wireless Telecommunications Bureau for their hard work and creative thinking on ways in which we can remove regulatory barriers, make more spectrum available for critical services, and increase spectrum flexibility.

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL**

Re: *Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission's Rules with Regard to Relocation of Part 24 to Part 2; Interim Restrictions and Procedures for Cellular Service Applications*, WT Docket No. 12-40, Notice of Proposed Rulemaking and Order (FCC 12-20).

Today we seek comment on a comprehensive proposal to make the Commission's cellular service rules consistent with those of virtually all other commercial wireless services. Updating these rules will offer greater flexibility to construct and operate facilities within a larger geographic area and commence operations without prior Commission approval, thereby reducing regulatory requirements.

Adopted decades ago, the current site-based cellular licensing rules are now obsolete and create unnecessary burdens for both licensees and Commission staff. Given our aim to modernize and streamline our licensing processes and to create parity among competing mobile providers, I am pleased to support this notice and associated order.

The notice is detailed and broad in scope, setting forth an array of ideas. The order suspending certain filings associated with cellular licensing will permit the orderly and effective resolution of the fundamental changes and issues raised today. I thank the Chairman for bringing these matters forward, as well as the talented team in the Wireless Telecommunications Bureau for your thoughtful, creative work. I look forward to engaging with interested stakeholders to learn more about the pros and cons of this proposal.

**STATEMENT OF  
COMMISSIONER MIGNON L. CLYBURN**

Re: *Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission's Rules with Regard to Relocation of Part 24 to Part 2; Interim Restrictions and Procedures for Cellular Service Applications*, WT Docket No. 12-40, Notice of Proposed Rulemaking and Order (FCC 12-20).

Last July, President Obama issued an Executive Order directing independent agencies to identify, and repeal or modify rules that are outmoded or excessively burdensome. Based on the record, thus far, I agree that many of the site-based licensing rules of the 800 MHz Cellular Radiotelephone Service meet the Executive Order's standard. When the FCC established the initial rules for allocating this cellular service some thirty years ago, it adopted a hybrid licensing approach. Original Service Licensees were given five years to build networks in any part of a geographic location. Any area, which was not built out during that time period, was then relinquished, and the FCC would subsequently re-license those unconstructed areas on a site-by-site basis. This licensing approach helped to drive construction of mobile wireless networks across the nation.

But now we find that many of the site-based rules in this cellular service have become outdated. The existing technical rules for this service define a cellular carrier's service area based upon analog signal propagation. As a result of the Commission's 2002 order, which established the sunset of analog cellular service rules, analog service is generally no longer being offered. Therefore, it no longer makes sense to define a cellular service area based on analog signals.

Over the years, the Commission has also learned that there are a number of administrative costs associated with site-based licensing. Under the current rules, a cellular licensee making any system change, that would expand or decrease its service area, must file an application with comprehensive engineering data. Geographic area licenses, especially when used in more metropolitan areas, obviate the need for these numerous filings. Therefore, these licenses allow providers to more rapidly deploy and modify facilities within their licensed areas. Of all the licensed services that providers use to offer consumers commercial mobile wireless service, the 800 MHz Cellular Service is the only one that still incorporates site-based licensing. So, eliminating site-based licensing rules, when they no longer make sense, appropriately promotes more rapid network deployment and furthers regulatory parity.

There are a number of important proposals in this Notice of Proposed Rulemaking, such as: awarding Overlay Licenses through competitive bidding; allowing licensees to use secondary market measures to spur deployment; and the use of bidding credits to encourage small businesses to enter the mobile industry. I strongly encourage the industry and the public to carefully consider all of the proposals in this item. I am particularly interested in hearing how these proposals, or any alternatives, could promote more competitive options for consumers.

I commend Rick Kaplan and his staff of the Wireless Telecommunications Bureau for their hard work on this item.